THE

Parliamentary Regiſter;

OR

HISTORY

OF THE

PROCEEDINGS AND DEBATES

OF THE

HOUSE OF LORDS.

CONTAINING AN ACCOUNT OF

The moſt intereſting SPEECHES and MOTIONS; accurate Copies of the moſt remarkable LETTERS and PAPERS; of the moſt material EVIDENCE, PETITIONS, &c. laid before and offered to the HOUSE,

DURING THE

THIRD SESSION of the FIFTEENTH PARLIAMENT

OF

GREAT BRITAIN.

VOL. XI.

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OF VOLUME XI.

HOUSE of LORDS.

Debate

C O N T E N T S.

THE HISTORY OF THE PROCEEDINGS and DEBATES Of the THIRD SESSION of the HOUSE of LORDS OF THE Fifteenth Parliament of *Great Britain*,



Appointed to be held at WESTMINSTER,

On *Thursday*, the 5th Day of *December*, 1782*.

THE King came to the House of Lords, and having sent for the Members of the House of Commons, opened the session with the following speech:

" *My Lords and Gentlemen*,

" SINCE the close of the last sessions, I have employed my whole time in the care and attention which the important and critical conjuncture of public affairs required of me.

" I lost no time in giving the necessary orders to prohibit the further prosecution of offensive war upon the Continent

* This session was intended to have been opened on the 25th of November last, and the proclamation ordering Parliament to meet *for the dispatch of business*, was published as usual: but on the 21st, a resolution was taken by the King's Servants, on account of the critical state of the pending negociations for peace, to advise a farther prorogation of ten days, notwithstanding the proclamation. The circumstance is not without precedent. Mr. Pitt did the same thing in 1757. Parliament had been ordered by proclamation to meet on the 15th of November; but intelligence coming of the King of Prussia's victory at Rosbach, the meeting of Parliament was put off to the first of December, to give the Minister opportunity to form a new system of operation. See Journals of the House of Commons. volume 27, page 937.

of North America. Adopting, as my inclination will always lead me to do, with deciſion and effect, whatever I collect to be the ſenſe of my Parliament and my people; I have pointed all my views and meaſures, as well in Europe as in North America, to an entire and cordial reconciliation with thoſe Colonies.

"Finding it indiſpenſible to the attainment of this object, I did not heſitate to go the full length of the powers veſted in me, and offered to declare them free and independent States, by an article to be inſerted in the treaty of peace. Proviſional articles are agreed upon, to take effect whenever terms of peace ſhall be finally ſettled with the Court of France.

"In th[illegible]itting their ſeparation from the Crown of theſe kingd[illegible]ave ſacrificed every conſideration of my own to the w[illegible]s and opinion of my people. I make it my humble and earneſt prayer to Almighty God, that Great Britain may not feel the evils which might reſult from ſo great a diſmemberment of the empire; and, that America may be free from thoſe calamities which have formerly proved in the mother country how eſſential monarchy is to the enjoyment of conſtitutional liberty.—Religion—language—intereſt—affections, may, and I hope will yet prove a bond of permanent union between the two countries: to this end, neither attention nor diſpoſition ſhall be wanting on my part.

"While I have carefully abſtained from all offenſive operations againſt America, I have directed my whole force by land and ſea againſt the other powers at war, with as much vigour, as the ſituation of that force, at the commencement of the campaign, would permit. I truſt that you feel the advantages reſulting from the ſafety of the great branches of our trade. You muſt have ſeen with pride and ſatisfaction the gallant defence of the Governor and the garriſon of Gibraltar; and my fleet, after having effected the object of their deſtination, offering battle to the combined force of France and Spain on their own coaſts; thoſe of my kingdoms have remained at the ſame time perfectly ſecur[illegible]nd your domeſtic tranquillity uninterrupted. This reſpectable ſtate, under the bleſſing of God, I attribute to the entire confidence which ſubſiſts between me and my people, and to the readineſs which has been ſhewn by my ſubjects in my city of London, and in other parts of my kingdoms, to ſtand forth in the general defence. Some proofs have

have lately been given of public spirit in private men, which would do honour to any age, and any country.

" Having manifested to the whole world, by the most lasting examples, the signal spirit and bravery of my people, I conceived it a moment not unbecoming my dignity, and thought it a regard due to the lives and fortunes of such brave and gallant subjects, to shew myself ready on my part, to embrace fair and honourable terms of accommodation with all the powers at war.

" I have the satisfaction to acquaint you, that negociations to this effect are considerably advanced, the result of which, as soon as they are brought to a conclusion, shall be immediately communicated to you.

" I have every reason to hope and believe, that I shall have it in my power in a very short time to acquaint you, that they have ended in terms of pacification, which, I trust, you will see just cause to approve. I rely, however, with perfect confidence on the wisdom of my Parliament, and the spirit of my people, that if any unforeseen change in the dispositions of the belligerent powers should frustrate my confident expectations, they will approve of the preparations I have thought it adviseable to make, and be ready to second the most vigorous efforts in the further prosecution of the war.

" *Gentlemen of the House of Commons,*

" I have endeavoured, by every measure in my power, to diminish the burthens of my people. I lost no time in taking the most decided measures for introducing a better œconomy into the expenditure of the army.

" I have carried into strict execution the several reductions in my civil list expences, directed by an act of the last sessions. I have introduced a further reform into other departments, and suppressed several finecure places in them. I have, by this means, so regulated my establishments, that my expence shall not in future exceed my income.

" I have ordered the estimate of the civil-list debt, laid before you last sessions, to be completed. The debt proving greater than could be then correctly stated, and the proposed reduction not immediately taking place, I trust you will provide for the deficiency, securing, as before, the repayment out of my annual income.

" I have ordered enquiry to be made into the application of the sum voted in support of the American sufferers; and

 I trust

I truſt that you will agree with me, that a due and generous attention ought to be ſhewn to thoſe who have relinquiſhed their properties or profeſſions from motives of loyalty to me, or attachment to the mother country.

"As it may be neceſſary to give ſtability to ſome regulations by Act of Parliament, I have ordered accounts of the ſeveral eſtabliſhments, incidental expences, fees, and other emoluments of office to be laid before you. Regulations have already taken place in ſome, which it is my intention to extend to all, and which, beſides expediting all public buſineſs, muſt produce a very conſiderable ſaving, without taking from that ample encouragement, which ought to be held forth to talents, diligence, and integrity, wherever they are to be found.

"I have directed an enquiry to be made into whatever regards the landed revenue of my crown, as well as the management of my woods and foreſts, that both may be made as beneficial as poſſible, and that the latter may furniſh a certain reſource for ſupplying the navy, our great national bulwark, with its firſt material.

"I have directed an inveſtigation into the department of the Mint, that the purity of the coin, of ſo much importance to commerce, may be always adhered to; that by rendering the difficulty of counterfeiting greater, the lives of numbers may be ſaved, and every needleſs expence in it ſuppreſſed.

"I muſt recommend to you an immediate attention to the great objects of the public receipts and expenditure, and above all, to the ſtate of the public debt. Notwithſtanding the great increaſe of it during the war, it is to be hoped that ſuch regulations may be ſtill eſtabliſhed, ſuch ſavings made, and future loans ſo conducted, as to promote the means of its gradual redemption by a fixed courſe of payment. I muſt, with particular earneſtneſs, diſtinguiſh for your ſerious conſideration, that part of the debt which conſiſts of navy, ordnance, and victualling bills: the enormous diſcount upon ſome of theſe bills ſhews this mode of payment to be a moſt ruinous expedient.

"I have ordered the ſeveral eſtimates, made up as correctly as the preſent practice admits, to be laid before you. I hope that ſuch further corrections as may be neceſſary, will be made before the next year. It is my deſire that you ſhould be appriſed of every expence before it is incurred, as

far

far as the nature of each service can possibly adn it. Matters of accounts can never be made too public.

" *My Lords and Gentlemen,*

" The scarcity, and consequent high price of corn, requires your instant interposition.

" The great excess to which the crimes of theft and robbery, in many instances accompanied with personal violence, particularly in the neighbourhood of this metropolis, has called of late for a strict and severe execution of the laws. It were much to be wished that these crimes could be prevented in their infancy, by correcting the vices become prevalent in a most alarming degree.

" The liberal principles adopted by you, concerning the rights and the commerce of Ireland, have done you the highest honour, and will, I trust, ensure that harmony, which ought always to subsist between the two kingdoms. I am persuaded, that a general increase of commerce throughout the empire, will prove the wisdom of your measures with regard to that object. I would recommend to you a revision of our whole trading system upon the same comprehensive principles, with a view to its utmost possible extension.

" The regulation of a vast territory in Asia opens a large field for your wisdom, prudence, and foresight. I trust that you will be able to frame some fundamental laws, which may make their connection with Great Britain a blessing to India; and that you will take therein proper measures to give all foreign nations, in matters of foreign commerce, an entire and perfect confidence in the probity, punctuality, and good order of our government. You may be assured that whatever depends upon me, shall be executed with a steadiness, which can alone preserve that part of my dominions, or the commerce which arises from it.

" It is the fixed object of my heart to make the general good, and the true spirit of the constitution, the invariable rule of my conduct, and on all occasions to advance and reward merit in every profession.

" To ensure the full advantage of a government conducted on such principles, depends on you temper, your wisdom, your disinterestedness, collectively and individually.

" My people expect these qualifications of you: and I call for them."

After

After the Lord Chancellor had read the King's Speech,

The Marquis of Carmarthen. The Marquis of *Carmarthen* rose to move the Address which his Lordship introduced by assuring their Lordships that he wanted words to express the grateful sense of his heart upon the speech which his Majesty had been graciously pleased to deliver from the throne: that he had always thought it his duty, to pay every respect which a subject owed to so amiable a Sovereign; but that far warmer sentiments than those of mere duty filled his mind at present. The high sense of his gratitude engrossed his breast, for the paternal regards his Majesty this day had so strongly evinced for the happiness and welfare of his people: but it is not, said his Lordship, by words we are to shew our feelings, let the world see by our actions that we deserve such a Monarch. This is the moment for Britain to exert herself surrounded by the glory of victory, now—now—is the instant for honourable peace. Our combined foes are baffled in the schemes they had nearest to their hearts. Gibraltar is relieved; Jamaica has no dread of invasion. Never was there a period in our history when the naval power of this country appeared at such a height. Never were its glories so resplendent. To the noble Lord who presides at the head of the Admiralty, must be ascribed our naval strength. Our renown must be given to the gallant Commander (Lord Howe) to whom that strength was entrusted. I flatter myself that nothing but unanimity will, at such a crisis as this, appear within these walls. In this confidence I have stepped forward with the present Address, hoping that whatever amendments may be made to my feeble expressions of gratitude to the best of Princes, they will be the amendments of corroboration, not of opposition. His Lordship moved that an humble Address be presented to his Majesty, to express, &c.

Lord Hawke. Lord *Hawke.* I rise, my Lords, to give my hearty concurrence to the vote of thanks moved by the noble Lord, and shall trouble your Lordships with very few words; as the noble Lord has made it unnecessary for me to say much on the subject:

I think, my Lords, his Majesty claims our warmest thanks for having graciously and strictly complied with the wishes of his people; such conduct has been attended with victory, and the hour of victory, is the hour of negociation. The House of Bourbon seeing their superior fleets and armies baffled and conquered by the abilities of your commanders and the courage of your men, have been inclined to treat; and I congra-

I congratulate this House, that however the separation between Great Britain and America is to be lamented, his Majesty's ministers have advised the Crown to relinquish this obstacle to the negociation for peace. The attainment of a forced connection with America, (for I will not enter into the possibility or impossibility of the measure) is neither for the interest, nor worthy the pursuit of Great Britain. No, my Lords, could we have foreseen how much blood and treasure would have been lavished on this unfortunate war, its most sanguine advocates would have reprobated the measure, they would have foreseen that in the scale of human life, advantages are always balanced by their concomitant disadvantages; that America would gain much, but she would lose more; that the Spanish colonies would pursue to effect the same ideas of emancipation; and that the period was arrived, when a new system of trade would take place: history would have informed them, that the commerce and naval power of this country, are not founded on the sands of America. No, my Lords, they are raised on the solid rock of national situation, national industry, and national courage. Since then, my Lords, such is the relative situation of each respective country, his Majesty's Ministers have certainly acted wisely in resting the connection of Great Britain and America, on the permanent basis of affection, consanguinity, religion and mutual interest. Pursuing the same liberal ideas which have attached the grateful affection of Ireland to this kingdom, they have done it, I flatter myself e're the cold hand of death has destroyed those in both countries, who can forget recent distresses, in the recollection of former benefits. The Loyalists too have not been forgotten, asylum, protection, and support are held out to them; criminal indeed would it have been to have neglected those unfortunate men who have deserved much at our hands, for much have they relinquished, and much have they suffered for the interests of this country. The neutral nations, satisfied with this plain, unequivocal proof, how desirous we are to establish the general tranquillity, will no longer permit France to disturb the peace of Europe.

I come now naturally to speak of the œconomy recommended in his Majesty's speech, your Lordships are sensible of the necessity of this measure; two plans were formerly adopted, the present, not only comprehends them both, but contains one of much greater extent and utility. Ministers are not afraid to pursue the intentions of Parliament, they have

have nothing to conceal, nothing of which they are ashamed, criminal indeed, would any other conduct be, when his Majesty has been graciously pleased to set them an example not as in former times, demanding the payments of accumulated debts, but providing for any debts incurred out of his annual income.

With such a prince, so gracious, so disinterested, and so worthy of the love of his subjects, what may we not expect? A peace, not dishonourably, but highly honourable to Great Britain; but should France continue the war, the spirit of our people, the spirit of our fleet and army still remains unbroken, the treasures of Great Britain are not exhausted, her arm still remains unnerved, the Commanders still exist who so lately led us on to victory, the glow of patriotism still animates the breasts of individuals, they have exhbited examples unmatched in history; let us follow the glorious example, we shall still rear the standard of victory, in defiance of the numerous foes, so invidiously combined against us.

Earl of Sandwich.

Earl of *Sandwich* assured their Lordships that he did not rise to oppose the Address; but on the contrary, to say, that at this critical and important moment, when the eyes of all foreign nations were upon the proceedings of Parliament, unanimity was of the utmost importance; and therefore that he would give his vote for the Address, as moved for by the noble Marquis. He was so well convinced of the importance and necessity of unanimity in Parliament at this time, that he thought every thing that was dear and honourable to the nation depended upon it. The Address was in general terms, and he would put confidence in his Majesty's servants, that they would act up to those general terms contained in it. But he wished to be understood, that when he gave his vote for this Address he did not thereby intend to give up his right of disapproving the particular measures, when they came under the discussion of Parliament. When the terms or propositions of peace were laid before the House, he should speak of them as they appeared to him to deserve. If he did not approve of them, if, in his opinion, they were inadequate, insufficient, and impolitic, he would say so. He did not consider himself precluded from examining and condemning, if he saw just reason, the particular measures of ministers, or terms of peace by the general vote he should give this day; and therefore he said this to shew the manner and principle in which his vote of this day was to be taken. The last campaign having proved a very glorious campaign

for this country, he thought we were entitled to very honourable terms of peace. The navy was never in so respectable a condition as at present. England never had so fine a navy. Two great officers had signalized themselves so eminently, as to reflect immortal honour on their names, and render inestimable advantages to their country. One in the West Indies, and one in Europe. The proud schemes of the House of Bourbon had been defeated, the grand objects of our enemies this year had been Jamaica and Gibraltar. They reckoned upon the conquests of these places with an almost certainty. Lord Rodney had defeated their fleet in the West Indies, and thereby saved Jamaica; and General Elliot had compelled the enemy to raise the siege of Gibraltar; these were advantages of the highest importance, and entitled this nation to very honourable terms of peace. He did not at present wish to know any of the terms, or any part of the state of the negociation. He was very sensible of the delicacy of the situation of his Majesty's servants; of the tenderness and caution they must make use of; and therefore nothing was farther from his thoughts, than saying any thing which might in the least degree embarrass them. But he must give them a piece of advice: he had been concerned in negotiations himself, and he knew something of the manner in which they were carried on. If our enemies were not inclined to submit or acquiesce in such honourable terms of peace, as we were justly entitled to, he hoped that the war would be continued with vigour; that Parliament would grant the most ample supplies for that purpose, that his Majesty's servants would meet with the fullest support, and that nothing would be wanting to make the next campaign as glorious as the last; and if it should so prove, he must say to the King's servants that whatever were the terms now offered, we ought at the end of the next campaign to be allowed to rise in our demands: if our enemies should prove successful he was certain that they would rise in their demands and therefore he cautioned Ministers not to suffer the present terms to be any precedent for a future negociation; if the war is continued upon these grounds they should have his support, but if they ventured to make innovations in the constitution, a constitution that had stood the admiration of ages, he must assure them they would meet with his hearty and determined opposition.

Earl of Radnor.

Earl of *Radnor* said, that it was not with the most distant view of interrupting that unanimity, so ably and properly recommended

recommended by the noble Lords who moved and seconded the Address, that he wished to make a small amendment. The Address as far as it went, met with his hearty concurrence. But he thought there was an omission in it. It was the gratitude which he felt, that suggested to him and pointed out this omission. The Address did not, in his opinion, express that grateful sense of his Majesty's goodness, and regard for the interests and happiness of his people, in sacrificing to their wishes and welfare, his own rights and sovereignty over America, to procure the blessings of peace, which such benevolence and attention so justly deserved. His Lordship therefore moved that after the words "to acknowledge with the sincerest gratitude," he added, "the sacrifice that his Majesty has been graciously and affectionately pleased to make to the wishes and opinions of his people, fully convinced that his Majesty's own conduct has always been actuated by a similar disposition."

This amendment was agreed to without any opposition.

Lord Visc. Stormont.

Lord Viscount *Stormont* said, it was not his intention to interrupt that unanimity, which, at this time, was so necessary in the proceedings of Parliament. The Address had his approbation. It contained those expressions of duty, loyalty and affection to the Crown, which would always from him meet with the warmest support. He entirely agreed with the noble Earl [Lord Sandwich] who spoke last, as to the prudence of observing secrecy in the present state of negociation. But as a part of the negociation had been revealed by the speech, he could not, in duty to his King and country, in justice to his own feelings, and, as a caution to the present Administration, forbear his animadversions upon it. "We have been told, by the noble Lord who moved the Address, that the navy of England is now greater than at any period in our history. I shall record the remark, and compare it with the result of our present negociations. But without referring to a future comparison, have we not occasion to question the wisdom of his Majesty's servants even in the few steps they have taken towards a pacification, as far as they have thought proper to disclose themselves to the public, through the medium of the King's speech. What is this provisional treaty made by them with the Commissioners of America? Commissioners acting under the guidance and direction of French councils. Does it not plainly import the most preposterous conduct, that it was possible for a ministry of the greatest imbecility to have fallen into? Does it not

say,

ſay, that without any condition, any qualification, any ſtipulation whatſoever, America ſhall be independent whenever France chooſes to make a peace with us? Is not this proviſional treaty irrevocable? Doth it not declare the matter in contention given up? Is not independence given to the Americans without poſſibility of retraction? Let France, Spain, and Holland now war as they pleaſe, the former grounds on which they fought, grounds by no means tenable by honour, are now changed. America has been treated with on an independent footing. This treaty has been made without equivalent. But before Miniſters had agreed to be weak enough to enter into this proviſional treaty, as it is called, they would have done well to have conſulted hiſtory on the occaſion. I will venture to affirm, that there is not an inſtance in either ancient or modern ſtory to countenance ſuch a procedure. It would not have demeaned the preſent Adminiſtration to have conſidered the conduct of the Spaniſh government in nearly ſimilar circumſtances. By a wiſe negociation, in a reign of the greateſt imbecility that ever Spain knew---I mean the reign of Philip II. the Spaniards retained ten out of ſeventeen revolted provinces, and theſe ten the moſt valuable to the Spaniſh empire. The Spaniſh negociator did more, he detached the ſeven provinces, whoſe independency was acknowledged, from their French allies. But this is not all that I have to reprobate in this unconditional independence, this proviſional peace. What are to become of the wretched Loyaliſts, is a mere proviſion for exiſtence; an eleemoſynary ſupport, all that this honeſt, brave ſet of men muſt expect at the hands of the government, which they have at the utmoſt riſk of life, fortune, and, in ſhort, every bleſſing on this ſide the grave, adhered to in the worſt of times? To Spaniſh hiſtory I will again advert in behalf of theſe much abuſed people: The rebellious Catalonians were on the remarkable treaty with that province, placed by their Sovereign on the ſame footing with his moſt favoured Caſtilians. In the treaty of Munſter, there is a leſſon of wiſdom, that the wiſeſt Miniſter under the ſun need not ſcorn to be inſtructed by.---And let me add, that, if (neglecting the wiſdom handed down by paſt ages) we ſhall abandon our generous, loyal, ſuffering friends, we ſhall bring ſo foul a diſgrace on the name of Britain, as no future period ſhall ever be able to expunge. Before the late change of Miniſters it was ſaid, that there were perſons in town authorized by America to treat of peace; but no enquiry had yet diſcovered

 the

the persons, nor ascertained the truth of that extraordinary assertion. I shall say but a word more, and that respects the part of the speech which mentions his Majesty's taking these measures in correspondence with the wishes of Parliament. Where have these wishes appeared? Will any noble Lord rise and tell me, that a resolution of the House of Commons conveys the wishes of Parliament? Surely not. The constitution is not so ill understood at this time of day, as to suppose any man so ignorant. By what means then is his Majesty to be considered to have collected the sense of Parliament? I see none. But I will pursue the matter no farther. I am sorry the terms of the speech gave me occasion for these remarks. The objects were before me, and as an honest man, I could not shut my eyes against them. Still however I shall hope the best, and suspend my judgment till the negociation on the tapis is finally closed. In the mean while, I thought it incumbent on me to qualify my assent to the present Address in the manner I have declared myself.

Earl of Shelburne.

Earl of *Shelburne* said, that he had entertained hopes from the desire of unanimity expressed by every noble Lord who had spoken, that he should not have troubled their Lordships this day, but he felt himself called upon by the noble Viscount in so strong a manner, that he must claim their Lordships indulgence for a few minutes. With regard to the American Commissioners at Paris being the directors of the French councils, he must say, that he thought the noble Lord totally under a mistake. In the course of the negociation, he had made no such discovery, nor had any circumstance happened which could give occasion for such a suspicion. He believed and never doubted that the American Commissioners would adhere firmly and faithfully to their alliances, their engagements, and their promises. In all the concerns which had hitherto passed, he had found them men of strict honour, never deviating from propriety and exact justice. They had acted fairly, honestly and openly. What he said was no more than bare justice. The noble Viscount was likewise mistaken in his idea of unqualified, unconditional independence, being given to America. He could not indeed speak to the particular situation, or conditions of the American treaty. The noble Earl (Lord Sandwich) whom he had heard with great pleasure, and whose advice he highly approved of, had spoken of the necessity, delicacy and secrecy proper to be observed at this moment. But there was an article in the King's speech which fully answered all that the noble

Viscount

Viscount had said upon this subject; and he would read it to refresh his Lordship's memory.

"Finding it indispensible to the attainment of this object, I did not hesitate to go the full length vested in me, and offered to declare them free and independent states, by an article to be inserted in the treaty of peace. Provisional articles are agreed upon to take effect whenever terms of peace shall be finally settled with the Court of France."

This offer is not irrevocable; if France does not agree to peace, the offer ceases. The noble Viscount had spoken of Spanish politics. It was an allusion he was surprised at; they were Spanish politics which had brought this country into its present situation. He had opposed and reprobated those Spanish measures, session after session; he had deprecated the vengeance of Ministers; he had unceasingly endeavoured to preserve some little remains of the friendship in America for this country; some atom or spark from which he had hoped, and did still hope, to rekindle a mutual affection, before all the feelings, passions and habits of that country became absorbed in the politics and interests of France. If, contrary to his expectation, peace should not be obtained, he assured their Lordships that every exertion should be made in carrying on the war; and he had the happiness to say, that there was a perfect unanimity among his Majesty's servants upon all the measures of government; those noblemen and gentlemen with whom he had the honour to act, had individually and collectively given the strongest support, shewn the warmest zeal, and displayed the greatest ability in the promotion of the national honour and interest. Another part of the noble Viscount's speech, related to the resolution of the House of Commons against the American war not being the sense of Parliament. It was very true, that a resolution passed by one House only, did not include the other House; but his Majesty was fully authorised to make that offer, from the sense of Parliament expressed on several occasions. He had said before he came into office, as well as since, that the Crown had a right to its negative. It was the prerogative of the Crown to make peace and war, his incessant endeavours had not been wanting to put an end to the American war; he must call it the accursed American war; he had found it impossible to be done by any other means, than an offer of independence. Finding every other effort to have failed, he was free to acknowledge that he had advised the offer which had been made. That offer went very much against his nature, it was a bit-

ter pill, the bittereſt he had ever ſwallowed; no man felt more ſenſibly upon this diminution of empire than he did, and it was ſingular that thoſe who had made this diminution inevitable, ſhould venture to queſtion it. It was a misfortune, but not a misfortune of his bringing on. He had not been the author of the Boſton port bill, of the tea act, and all the numerous provocations which had beeh given to America. The noble Earl (Lord Sandwich) had mentioned his determined reſolution to oppoſe any innovation in the conſtitution. If the queſtion of a more equal repreſentation is the innovation alluded to, he muſt ſay, that he was of the ſame opinion he had ever been upon that ſubject, it was a point of great importance, and he ſhould be happy to hear every opinion upon it, in order that it might have the fulleſt and faireſt diſcuſſion.

Earl Fitzwilliam.

Earl *Fitzwilliam* apologized for ſpeaking upon a ſubject not fully before their Lordſhips, and which, owing to the delicacy of his Majeſty's ſervants, was not ſufficiently explained to become intelligible; the noble Lord (Lord Shelburne) had indeed ſaid, that the offer of independence to America had been adviſed by himſelf. In the month of June laſt, the noble Lord was totally averſe to making that offer. No material circumſtance in the affairs of America has happened ſince that time, to make this great alteration in his Lordſhip's ſentiments. It is true, the noble Lord calls it a bitter pill, but he has ſwallowed it.

Earl of Shelburne.

Earl of *Shelburne* re-affirmed that had not altered his ſentiments, that he had attempted to procure peace by every means before he made the offer; that every effort and every aſſiſtance he could get had proved ineffectual; but he was not to be charged with this misfortune, he had ſaid, and he was within the recollection of every noble Lord preſent, how ſtrenuouſly and frequently he had oppoſed all the violent meaſures which had reduced us to this neceſſity; he had ſeſſion after ſeſſion attempted to put a ſtop to the madneſs and rage for carrying on the American war. He had not been the author of the Declaratory Act, which had given more offence and excited greater jealouſy in America, than any one of the ſubſequent acts; an act which had been reprobated by the Congreſs, and throughout every province in America.

Lord Viſc. Stormont.

Lord Viſcount *Stormont* ſaid he recollected an expreſſion of the noble Lord's (Lord Shelburne) which was, when the independence of America was granted, the ſun of Great Britain,

tain was ſet. The noble Lord was now of a different opinion, that ſun is ſet, there is not a ray of light left, all is darkneſs. The noble Lord contemns Spaniſh politics; the Spaniſh Miniſter who negociated on the part of Spain the treaty of Munſter, was however a very able negociator; he ſucceeded in preſerving to the Crown of Spain, ten of the ſeventeen provinces which had revolted. But the Britiſh negociators at Paris, had not preſerved one of the thirteen colonies.

The Duke of Richmond.

The Duke of *Richmond* ſaid the diſturbances in America were not occaſioned by the Declaratory-act, but by the abuſe of it, which followed in the ſucceeding Adminiſtration; the people in America were perfectly happy and quiet, after the repeal of the Stamp-Act, although the Declaratory-act was paſſed at the ſame time. His Grace ſaid, he muſt take notice of what had fallen from a noble Earl, who ſpoke early in the debate (Lord Sandwich) of the expectation of very honourable terms of peace, becauſe our navy was ſo reſpectable; and two officers, one in Europe and the other in the Weſt Indies, had baffled and defeated the ſchemes of the Houſe of Bourbon. The reſpectable ſtate of the navy, he hoped his Lordſhip would claim no merit for. It is true, that the navy was now reſpectable, and unanimity was reſtored in it. But what was the navy which his Lordſhip left, when he went out of office in March laſt? It was a fact, an indubitable fact, that when his Lordſhip left the Admiralty, there were not more than eleven ſhips of the line fit for ſervice. The uncommon, vigorous, and unremitting exertions of the noble Lord, at the head of the Admiralty, had equipped and brought the navy into its preſent reſpectable ſtate. There was no noble Lord preſent, nor any man in the nation, more ready to beſtow every praiſe upon the conduct of Lord Rodney than he was; nor of adding, if it was poſſible to add any thing, to the encomiums moſt juſtly due to General Elliot; but in doing theſe, he could not forget, nor withhold the praiſe, alſo due to the noble Lord, who commanded the fleet which relieved the brave and gallant garriſon; that fleet, beſides better equipped than any fleet which had ſailed from England for ſome years paſt, was commanded by ſome of the beſt officers in our ſervice, who nobly came forward when they ſaw a Board of Admiralty in which they could place confidence. The combined fleet, though greatly ſuperior, durſt not engage them; the conſequence was, that the place was effectually and fully relieved, and the ſiege raiſed. The noble Earl had ſaid, he would oppoſe all innovations

vations of the constitution. But to make a more equal representation of the people in Parliament, was no innovation; would any man say, that the present House of Commons was a fair and equal representation of the people? It was no such thing, it was a mockery of representation; the House of Commons, as it was at present constituted, was a mock-representation.

Earl of Sandwich.

Earl of *Sandwich* said, that the siege of Gibraltar was raised before the fleet arrived there. General Elliot had raised the siege by destroying the floating batteries and gun-boats. He was happy to hear that unanimity was restored to the navy. As to there being only eleven ships fit for service when he went out of office, he believed there were more; but he had not his papers in his pocket, nor did he so precisely remember particulars, to be able to state the fact of what ships were ready when he quitted the Admiralty. With regard to the question of representation, he would assure the noble Duke, that when it came to be agitated his Grace would not find the argument lie so entirely on one side as he seemed to think. There was a good deal to be said on the other side.

Duke of Richmond.

The Duke of *Richmond* re-asserted that the fleet relieved Gibraltar, that the siege was not raised until after the transports had landed the stores. Perhaps it might be said, that the siege was not even yet properly raised; but as the enemy had marched away twenty battalions since Lord Howe was there, he did consider the siege as raised; though the blockade, on the Spanish side, was continued.

The Chancellor put the question on the motion for the Address; when it was unanimously agreed to.

December 6.

The Lords presented their Address to his Majesty at St. James's.

The humble Address of the Right Honourable the Lords Spiritual and Temporal in Parliament assembled.

" *Most gracious Sovereign*,

" WE, your Majesty's most dutiful and loyal subjects, the Lords spiritual and temporal, in Parliament assembled, beg leave to return your Majesty our humble thanks for your most gracious speech from the throne.

" It

"It is with the sincerest gratitude we acknowledge the sacrifice which your Majesty has been graciously and affectionately pleased to make to the wishes and opinions of your people, fully convinced that your Majesty's own conduct has always been actuated by a similar disposition; we acknowledge likewise your Majesty's constant care and attention to the true interests of your people, and the critical state of public affairs since the last session of Parliament, and in a particular manner for your Majesty having been graciously pleased to direct your measures towards promoting a cordial reconciliation between Great Britain and America.

"Permit us, Sir, to express our great satisfaction that your Majesty, in the exercise of the powers which were vested in you, has laid the foundation of a peace with that country, and that you have actually agreed upon articles to take effect when the terms with the Court of France shall be finally settled, thereby affording to your people a reasonable expectation of being delivered from the burdens of a most expensive war; as well as to unite our hopes with your Majesty's, that religion, language, interests, and affection may yet be the means of affecting a permanent union between the two countries; to obtain which purpose, so highly laudable, our most earnest endeavours shall not be wanting.

"Your Majesty may be assured we are sensible of the important advantages resulting from the successful exertions of your Majesty's fleeets, owing to the skill and bravery of your officers, and those serving under them, in protecting your distant colonies and settlements, as well as the great branches of our trade; and that we are impressed with a due sense of what is owing to the spirit and good conduct of your Majey's Governor and garrison of Gibraltar.

"We set a just value on the continuance of our domestic tranquillity, and shall always reflect with peculiar satisfaction on the signal instances of public spirit called forth by the occasion.

"We learn with great joy that a considerable progress is made in the negociations for a general peace, at a moment so suitable to your Majesty's dignity; and we cannot omit to acknowledge the paternal regard your Majesty has shewn for the lives and fortunes of your brave and gallant subjects.

"We return your Majesty our hearty thanks for your gracious promise, to communicate to us the terms with the several belligerent powers as soon as they are concluded; and

we give your Majesty the strongest assurances, that if any unforeseen change in the dispositions of those powers should disappoint your Majesty's confident expectations of peace, we will most chearfully exert our utmost endeavours to assist your Majesty in a vigorous prosecution of the war.

"We will not omit, on our parts, to apply ourselves, with the most unremitting attention, to the several important points which your Majesty has been pleased to mention, and to consider of the most effectual means for remedying the evils which may be apprehended from the present scarcity of corn; and for preventing, as far as possible, the crimes of theft and robbery, which have lately prevailed to a very alarming height.

"We beg leave to express our satisfaction at the measures which have been adopted with respect to Ireland for securing its rights and commerce, which, we trust, will have the effect of ensuring that harmony which ought always to subsist between the two kingdoms; and we do assure your Majesty we shall be ready to direct our attention to a revision of our whole trading system, guided by the same liberal principles which your Majesty has been graciously pleased to commend.

"We are deeply impressed with a sense of the important subject which the state of our national concerns in the East Indies offers for our most serious deliberation; and your Majesty may be persuaded we have a due impression of your royal goodness in thus extending your anxious regard to the good government of the distant territories in Asia, and to the welfare and happiness of the people there: we will, in return, shew ourselves zealous to answer your Majesty's gracious expectations, by assisting to frame some fundamental laws which may make their connection with Great Britain a blessing to India, and may give to other nations, in matters of foreign commerce, an entire confidence in the probity justice, and good order of the British government.

"Allow us to express, in the most fervent and grateful manner, our warmest gratitude for your Majesty's gracious assurances that you will make the general good, and the true spirit of the constitution, the invariable rule of your Majesty's conduct, and that you will, on all occasions, advance and reward merit in every profession.

"Your Majesty may rely with the utmost confidence, that every measure will be adopted on our part, to secure the

full advantages of a government conducted on such principles."

His MAJESTY's ANSWER.

"*My Lords,*

"THIS very affectionate and loyal address affords me the highest satisfaction.

"Your approbation of the foundation I have laid for a peace between Great Britain and America, and of the measures I have taken towards a general pacification, as well as the earnest zeal which you have so unanimously expressed for carrying on the war with vigour, if the negociation should unexpectedly break off, must be attended with the best effects, both at home and abroad.

"Your affectionate acknowledgment of my *constant* disposition to make my own conduct conformable to the wishes and opinions of my people, touches me most sensibly.

"Upon that principle, I can never regret the sacrifice I make of every consideration of my own.

"I accept, with pleasure, your assurances of support to a government conducted on principles equally agreeable to my own honour, and the public good."

Adjourned to the 13th.

December 13.

Earl Fitzwilliam.

Earl *Fitzwilliam* gave rise to a conversation on the subject of the difference which was evident in the language of Ministers in the one house and the other, on the meaning of the Provisional Treaty with America. The noble Earl said it was impossible for any of their Lordships to have taken notice of the extreme difference that there was in the explanation which his Majesty's Ministers had given of the King's speech here, and in another place. It was impossible to walk the streets without being told of the inconsistency of Ministers. It was the subject of all the news-papers, and the topic of general conversation. He begged leave to say, that it excited in his mind apprehensions of a very uneasy kind, and he had risen to put a question to the noble Earl in the blue ribband, who would have the goodness, he trusted, to give him a clear and explicit answer. In this house the treaty was declared to be conditional, and revocable, and

 dependant

dependant on the present negociation with France.—In the other house it was declared to be absolute and unconditional —and dependent on no circumstance whatever. It was impossible for their Lordships to rest contented under explanations so inconsistent and contradictory; it was fit that they should know clearly and distinctly the situation in which we stood; and therefore he hoped the noble Earl would have no objection to answering his question. He had written it down, in order to be more distinct in the matter, and it was as follows: "Is it to be understood, that the independence of America is never again to become a subject of doubt, discussion, or bargain; but is to take effect absoutely, at any period, near or remote, whenever a treaty of peace is concluded with the Court of France, though the present treaty should entirely break off? Or, on the contrary, is the independence of America merely contingent; so that if the particular treaty, now negociating with that Court, should not terminate in a peace, the offer is to be considered as revoked, and the independence left to be determined by circumstances and the events of war?"

Earl of Shelburne.

The Earl of *Shelburne* said, that there was a very short answer to the question of the noble Earl; that in all the proceedings of Parliament, in all times, even in those of peace, there never was a precedent of any such question being put, and answered by a Minister. There was no man less ready to fly to the forms and orders of that House for refuge against questions than himself; but nothing could be more unwise, and more unsafe, as well as more unparliamentary, than to enter into the discussion proposed by the noble Earl, and give any answer to his question, either one way or the other. He was bound, by his office, to keep the secrets of the King,— he was bound by his duty to his King and country, to keep them inviolably, and he would do so with his life. The secrets of the King, in the present circumstances of the empire, were of a nature so important, that surely he would have the voice of the House with him, when he said, that to bring them at all into discussion, would be highly unjustifiable. The secrets of the King's prerogative were, of all others, the most sacred, and the most particularly to be guarded. He declared that he would not only resist the question of the noble Earl, but, if the House itself should in a regular manner call upon him, he would keep the King's secret, nor should they constrain him to disclose it. A time would speedily come when the noble Earl would

would have a right to call for the agreement which was concluded with the Americans; and his Majesty's ministers held themselves responsible to their country for the articles which it contained. In the mean time he begged the Houseto remember, that the thing was done, that the treaty was signed and sealed; and that, whether it was good or bad, the production of it on that table could not vary the measure, in order to make it what noble Lords might wish it to be. He begged them at the same time to remember, that that agreement with the Americans had been made in consequence of an act of the last session, empowering his Majesty to conclude the differences between this country and America, so anxious had Parliament been that there should be no obscurity in the matter; and the King's ministers were anxious that peace should be suddenly restored to this country.

Earl Fitz-william.

Earl *Fitzwilliam* said, that nothing was more distant from his imagination, than the desire of embarassing Ministers in the treaty now carrying on for a general peace. His intenrion was to remove embarassment, by the removal of ambiguity. The noble Earl talked with his usual eloquence of the obligation he was under to keep the secrets of his royal Master. God forbid that he should breathe a wish that he should disclose the secrets of Government. He called for no secrets. The King's speech told him all that he wished to learn, and an official letter, sent by Mr. Thomas Townshend, one of his Majesty's principal Secretaries of State, to the Lord Mayor of London, and the Directors of all the great Companies, declared that a treaty was concluded with the "United States of America." If then they were the "United States of America," we were to consider them as declared by his Majesty's Ministers Independent States. If they were not independent, they would not, as he conceived, be called the United States of America, since they would only be British Colonies. So far did the letter of Mr. Secretary Townshend go; and the speech of the King delivered from the throne spoke the same language. It stated that his Majesty had, in compliance with the sense of Parliament, made them an offer of independence; and that Provisional Articles were signed, to be inserted in the treaty that should be made for peace with France;—and it went on with these words: "In this separation," &c. If then we were separated, the question which had been so long the subject of struggle and contention was over, and America was, to all intents and purposes, declared to be independent of the

Crown

Crown and Legiſlature of Great Britain. With theſe declarations he, for one, was ſatisfied, and thought them ſufficiently plain and ſpecific: but one of his Majeſty's Cabinet Counſellors, and one who certainly had as much, if not more, power in his hands than any other, had ſaid that the Proviſional Articles did not extend ſo far,—that they were conditional, and depended on the preſent negociation for peace with France. It was this which he wiſhed to have explained.

Duke of Richmond.

The Duke of *Richmond* ſaid, that in a public converſation, which had been very improperly adverted to in the other houſe, he had given no ſuch opinion as was aſcribed to him. He had ſaid, that it was impoſſible in any treaty that proviſion could be made for all contingencies, and that we could abſolutely truſt to the efficacy of treaties in any given occaſion. The noble Duke mentioned ſeveral caſes that might occur, and againſt which it was impoſſible for any human government to provide. In particular, his Grace ſaid, it was an article in all treaties of peace, that there ſhould be perpetual amity and peace between the contracting powers. This was always inſerted; but was there any human means of enforcing this moſt ſalutary proviſion? He mentioned this to ſhew how perfectly idle and abſurd it muſt be for their Lordſhips, or any men, to argue on this treaty now, when the proviſions of it were not known. He could aſſure the Houſe, that not only the noble Earl in the blue ribband, but every one of his Majeſty's Miniſters, profeſſed the diſpoſition, and avowedly acted on the principle, of putting a total end to the American diſpute.

Earl of Derby.

The Earl of *Derby* ſaid, he was aſtoniſhed to hear his Majeſty's Miniſters talk of the ſecrecy of a meaſure which had not only been publiſhed from the throne, and by their Colleagues in another houſe, but alſo in official letters. All that was now deſired or called for, was, that his Majeſty's Miniſters in that houſe ſhould be as candid, open, and explicit, as they were in the other, and ſhould give a plain anſwer to a very plain queſtion; "Are the Americans declared to be independent or not?"

Duke of Chandos.

The Duke of *Chandos* thought the Earl of Shelburne clearly in the right in refuſing an anſwer to the queſtion which had been put by the noble Earl; and he aſſured the noble Earl in the blue ribband, that while he continued to act on the principles held out in the ſpeech from the throne, he ſhould have his very warm ſupport.

The

Earl of Shelburne.

The Earl of *Shelburne* thanked the noble Duke for his very obliging approbation. In regard to the question which the two noble Earls continued to press upon him, his answer was the same now as before. He neither could, nor would enter into any explanation of a matter which could not be explained without danger to the country. In regard to what he said on the first day, he was in the memory of every noble Lord, that his language on that day was clearly this, that it was impossible to argue on a paper which could not be produced nor explained. This was his language then, and it was his language now; he could not therefore avoid saying, that the question of the noble Lords was captious, and that they must seek for grounds of opposition to his measures more substantial than that which they had now taken. He assured them, that this topic of accusation would not bear them through. The great advantage of monarchy, as he had said, in our constitution, was, that it trusted in the Crown the secrets which must necessarily attend all negociations with foreign powers. He could easily conceive, he said, a case in which the people of this country might speak to the Crown in such language as this: "Sire, we called in the aid of your illustrious family to save us from Popery and arbitrary power. We have for three ages reaped the benefits of their attention to our interests and welfare, but not thinking that monarchy is any longer essential to our security, freedom, and happiness, we are determined to do all the business of the Crown ourselves: and therefore, with many thanks for your care and kindness, we make you our bow, and intreat you to relinquish the trust." He could conceive all this; but while the Crown did remain a part of our constitution, and those negociations were trusted to the prerogative, he could have no conception of their calling for the secrets of any negociations which the King might be carrying on for the purpose of peace. The noble Earls thought there was no danger in disclosing the treaty in question. The best answer to this assertion was, that those Peers, who did not know the subject matter of that treaty, were of opinion that there was danger in its exposure, and they therefore refused it.

Lord Viscount Townshend.

Lord Viscount *Townshend* professed, that he could not see why the noble Earl in the blue ribband thought it necessary to ascribe to the two noble Lords any other, than public and manly motives for the question they had put and urged. He said the noble Earl had himself, when out of office, been

fond

fond of embarrassing Ministers with questions. It was his clear opinion, that the ambiguity of which the noble Earls complained did exist. He was fully convinced, that this country ought, by all means, to declare America independent, and if this was not done irrevocably and finally, it was done wrong. By the very name of this agreement, he was alarmed; it was called a provisional agreement, and the provision was, that it depended on the conclusion of a treaty of peace with France, by which America was rendered dependent on that power for peace.

Earl of Derby.

The Earl of *Derby* said, there were many cases in which the responsibility of Ministers was not a sufficient security to the nation against their misconduct. For instance, says he, if any Minister should be found wicked and profligate enough to think of giving up, in a treaty, the unconquerable fortress of Gibraltar, what other protection can the kingdom have in so alarming a moment, than that by knowing the fact, they might have an opportunity to prevent it? He reprobated the idea of opposing the Minister from dishonest and uncandid views.

Duke of Manchester.

The Duke of *Manchester* said, that the question put by the noble Earl was very unreasonable, and he thought Ministers right in not giving any answer to it.

Duke of Richmond.

The Duke of *Richmond* rose to declare, that in all his transactions with the noble Earl, and the rest of his colleagues in the Cabinet, he had found no variation of sentiment, no change of conduct with respect to America, nor had he any distrust in his integrity from any thing that he had seen since he came into office. Their principles were still unchanged.

Earl Fitzwilliam.

Earl *Fitzwilliam* reminded the noble Duke, that the noble Earl had placed himself in his present situation by means not perfectly consistent with the principles of those men with whom his Grace had always acted. The principles of those men, in which he had been educated, and in which he should die, would never admit that a Prime Minister should be established on such a foundation as the noble Earl had been.

Earl of Shelburne.

The Earl of *Shelburne* called the noble Earl to order. He said, that it had always been the pride of his life to stand unconnected with party, and to reject party as an unconstitutional thing. He stood single in declaring, that he would never refer to that means either of placing himself in his situation, or supporting himself in it. He had lived with a few friends in habits of intimacy and friendship, but he scorned the connection of party, with which to take the King's closet by force.

Earl

Earl *Fitzwilliam* said in answer to this, that it was curious to boast of his having but few friends in the country, in preference to many; and after a few words more the conversation dropt.

Earl Fitzwilliam.

Lord *Grantham* then rose to move the thanks of the House to the gallant General Eliott, Lord Howe, and the other officers engaged in the defence and relief of Gibraltar. The motions were the same as those passed the day before in the House of Commons, and they passed without debate, *nemine contradicente*.

Lord Grantham.

Adjourned to December 20.

December 20.

No Debate.

December 23.

The King went to the House, and passed the land-tax and other bills.

His Majesty being retired, Lord *Dudley* rose to move an address of thanks to Sir Edward Hughes, for his meritorious services in the East-Indies; he premised his motion, by assuring their Lordships, that he was very far from wishing to throw the slightest reflection on any individual who was employed in that part of our dominions, by confining the thanks of the House to the Commander in Chief only; but he was of opinion, that thanks might be carried too far; that officers ought to look up to their commanders for approbation, and no farther, and in possession of that, they might conceive themselves included in every encomium passed by that House on their General Officer. He would not enter into a detail of the services that had been rendered to our possessions in the East, by those, he would call them, glorious actions, of the 12th and 17th of April; every one was full of them; every one was convinced of their consequence as well as himself; he should therefore move, "That the thanks of that House be given to Sir Edward Hughes, Knight of the Bath, for his important services in the East Indies, on the 12th and 17th of April, 1782."

Lord *Keppel* did not rise to start the least objection to the motion, for he was of opinion the gallant Admiral deserved every return that this country could give him; he only wished the noble Lord who made the motion had extended it still farther, and not have confined himself to the actions of the 12th and 17th of April, as Sir Edward's conduct at Trincomale

Lord Keppel.

male and Negapatam, in bravely daring the monsoons, and tempestuous weather, would be remembered with admiration, as long as a monsoon or its idea existed. It passed unanimously.

Lord Walsingham.

Lord *Walsingham* acquainted the House, that he got up to move their Lordships for an address of thanks to Sir Eyre Coote, and at the same time to enter his protest against the too frequent practice of passing such motions in that House, as, by their becoming frequent, they would lose much of their value; and he was still more against their being extended beyond the Commander in Chief, for by making them general, every officer employed by this country, for every trifling service, would imagine he deserved the thanks of Parliament, and from that principle would never merit so flattering, as he conceived it ought to be esteemed, a mark of distinction. Their Lordships had very few instances on their records; last war, during which many brilliant actions had been fought, had not produced a single one: his Royal Highness the Duke of Cumberland, for the battle of Culloden, was the last, till very lately; he indeed had merited it; for he not only at once put an end to a formidable rebellion, but firmly established the House of Hanover on the British throne. The army and navy were certainly distinct in the East Indies, and as their Lordships had passed their thanks to Sir Edward Hughes, Commander in Chief of one, he trusted they would not refuse them to Sir Eyre Coote, Commander in Chief of the other: he did not mean to lessen, in the least degree, the merits of the one, by extolling the services of the other, but he must be allowed just to observe, that those of Sir Eyre Coote were not less worthy the marks of their approbation. He had accepted the command on the solicitation of the Governor-general, who was in the greatest agitation for the approaching danger. He had defeated Hyder Ally three different times, and in the last action, had pursued him almost to the borders of the Carnatic: these were surely eminent services, and for which he should move their Lordships, "That the thanks of the House be given to Lieutenant-general Sir Eyre Coote, Commander in Chief of his Majesty's troops in the East Indies, for his assiduity and eminent services in that part of his Majesty's dominions," which passed unanimously.

Lord Shelburne.

Lord *Shelburne* then moved, "That the House be adjourned to Tuesday, January 21;" which, being agreed to, the House adjourned accordingly.

January

January 24.

Lord Viscount *Grantham* announced to the House, that Preliminary Articles of Peace were signed with France, and also with Spain, and that these, as well as the Provisional Articles with America, would be laid on the table of the House in a few days. He could not pledge himself to a day; but he believed it would be on the Monday following.

Lord Visc. Grantham.

Adjourned to the 27th.

January 27.

Lord Viscount Grantham brought down and laid upon the table, the Preliminary Articles of Peace with France, the Preliminary Articles with Spain, and the Provisional Articles with America.

Their titles were read by the clerk, and the noble Lord moved that they should lie on the table. Ordered.

He then moved, that they should be printed for the use of the members. Ordered.*

Adjourned.

February 11.

There was no public business till this day.

The *Lord Chancellor* delivered the thanks of the House to Lord Howe for the conduct of his fleet in the relief of Gibraltar. In doing this, the noble and learned Lord expatiated on the merits of the very great service rendered to this country in this important expedition, and on the gallantry of the action he had fought with the combined forces of the enemy, so superior as they were in number, and withal unwilling to engage.

The Lord Chancellor.

Lord *Howe* rose in his seat on the Viscount's bench, and said, that he was truly sensible of the great honour which the House did him; and he was assured that the officers and seamen in the fleet under his command in that expedition, would think themselves highly honoured by the notice which the House had taken of their conduct in the engagement; in which they had done their duty, and were prevented by circumstances from doing more.

Lord Howe.

Earl *Fitzwilliam* then moved for an account of all the ships in commission, with the number of men borne and mustered and

Earl Fitzwilliam.

* For a literal, and official copy of these Articles, vide Commons Debates, Vol. IX. page 165.

and also of all the ships ready for sea, preparing, and those on the stocks, and nearly ready on the 20th of January, 1783. The noble Earl said this motion was necessary, in order that they might enter fairly into the consideration of the articles of the peace, that the House should know what was the situation of the country with respect to naval force, when the Preliminaries of Peace were signed. Ordered.

Lord Visc. Stormont.

Lord Viscount *Stormont* moved for the state of the naval force on the 30th of March, 1782, when Lord Sandwich went out of office. Ordered.*

Earl Fitzwilliam.

Earl *Fitzwilliam* desired to know when the Preliminary Articles would be taken into consideration.

Lord Grantham.

Lord *Grantham* said it was impossible for him to name the particular day, because it must depend on the ratification of the Preliminary Articles, but he imagined it would be in the beginning of the next week.

Adjourned.

February 12.

The House heard evidence on the Divorce bill of John Williams, Esq. The criminal conversation of his wife, Elizabeth, with Captain Peyton, was indisputably proved; and two persons were adduced to prove, that they had not cohabited together from the time mentioned in the bill, in order to bastardize a child already born, and another of which the lady was then enseint.

Adjourned.

February 17.

PRELIMINARY ARTICLES OF PEACE.

The House about four o'clock proceeded, according to the order of the day, to take into consideration the Preliminary Articles of Peace with France, the Preliminary Articles with Spain, and the Provisional Articles with America.

They were severally read by the clerk at the table, on the motion of Lord Grantham; after which,

Earl of Pembroke.

The Earl of *Pembroke* rose, to move an address of thanks to his Majesty. He said, that it would be the greatest presumption in him to give any opinion in that House upon an object of such magnitude, as that of the Preliminary Articles of Peace, but he thought he could not err in proposing an address of thanks to his Majesty, for having complied with the

* For these Papers vide Commons Debates, Vol. IX. page 369.

the universal wish of his people in putting an end, and that too without the mediation of any neutral power, to an unhappy and calamitous war, the continuation of which, must, notwithstanding the admirable conduct and brilliant success of Lord Rodney, Lord Howe, and General Eliott, have terminated in irreparable ruin, and have made almost any terms of peace acceptable. Without entering at all into the merits of the articles before them, and even supposing that there might be some difference of opinion about them, there was surely one thing in which they must all agree, which was, to thank his Majesty for having laid the Articles agreed upon as preliminaries before the House. There was also another thing about which he conceived they could not differ, namely, the necessity for peace in general, and the advantage which it would bring to the country. Peace would relieve the kingdom from a load of taxes; revive the old, and open new channels of commerce; restore harmony and mutual affection between the subjects of Great Britain and the United States of America; and contribute to promote the happiness and established tranquillity of Europe. He moved,

"That an humble Address be presented to his Majesty, to return his Majesty the thanks of this House for his gracious condescension in ordering to be laid before us the Preliminary Articles of the different treaties which his Majesty hath concluded, and to assure his Majesty that we have considered them with that attention which so important a subject requires.

"To express in the most grateful manner to his Majesty our satisfaction that his Majesty has, in consequence of the powers entrusted to him, laid the foundation by the Provisional Articles with the States of North America, for a Treaty of Peace, which, we trust, will insure perfect reconciliation and friendship between both countries.

"That, in this confidence, we presume to express to his Majesty our just expectation that the several States of North America will carry into effectual and satisfactory execution, those measures which the Congress is so solemnly bound by the treaty, to recommend in favour of such persons as have suffered for the part which they have taken in the war, and that we consider these circumstances as the surest indication of returning friendship; and to acknowledge to his Majesty our due sense of that wise and paternal regard for the happiness of his subjects, which induced his Majesty to relieve them from that burthensome and expensive war, by the Preliminary

liminary Articles of Peace, concluded between his Majesty and the Most Christian and Catholic Kings.

"To assure his Majesty that we shall encourage and promote every exertion of his subjects of Great Britain and Ireland, in the cultivation and improvement of those resources which must tend to the certain augmentation of our public strength, and that with these views we shall most diligently turn our attention to the revision of all our commercial laws, and endeavour to frame them upon such liberal principles as may best extend our trade and navigation, and proportionably encrease his Majesty's naval power, which can alone ensure the prosperity of his kingdoms."

Marquis of Carmarthen

The Marquis of *Carmarthen* seconded this motion. The nation, he said, wished for peace, and he congratulated them on its happy accomplishment. The confederacy that had been formed against England was dissolved. The nation was eased of an intolerable and encreasing load of taxes. Trade would revive, and Great Britain, pursuing the plans of wisdom, moderation, and peace, would still be one of the first powers of Europe. He enforced the propriety of agreeing to the motion, by describing the situation in which this country stood antecedent to the negociation for peace. His Lordship emphatically dwelt upon the blessings that must attend a cessation of hostilities, and the sad consequences that were naturally to be expected from a continuance of the war. The relative situation of Great Britain and her enemy warranted the terms agreed to, and he thought them as much, in every extent of reasonable expectation, as could be demanded, or as would be granted.

The Earl of Carlisle.

The Earl of *Carlisle* said, that whatever might be the proceeding of the day, whether it might end only in a denial of all approbation, or tend to a more serious reprehension of Ministers for entering into terms which may not be deemed adequate to the situation of the country, but derogatory to its honour and its interest, it was necessary on every account to establish this position, that the peace once concluded was inviolable. That it was a sacred edifice, and, once consecrated, however hideous the architecture, and ignorant the architect, it was not to be cast down.

The nation, continued his lordship, was tired of war. The object was gone for which we fought. Thirteen millions of added debt was to be put into the scale, against any probable advantage which could attend the obstinate continuance

ance of it. Fortified and secure in the popular sentiment, and borne along by the wishes of the public, the more rapidly (with the observance of certain duties) the Minister drove the war to its termination, the more securely he rivetted his own political existence, and laid the strong foundation of fair fame and reputation to himself and his administration. With a fleet of more than one hundred sail of the line; with an hundred and ten thousand seamen borne and mustered; without the disgrace of having a single ship of our line in the possession of the enemy; with the certainty, that if the expences for carrying on the war were unavoidable, a generous people would not refuse the supply; with the knowledge that the finances of France were in much disorder, an equal aversion to the war existing there also; (witness the several spirited memorials from the states of Britanny, and other places against it) that they were in great distress for seamen for the fleet; Spain frustrated in her great object, the fortress of Gibraltar, which engaged her in the war; a serious commotion in her American dominions, and like the rest of the belligerent powers, fatigued, exhausted, and distressed; Holland, next to ourselves, the principal sufferer, trembling at her intestine disturbances, and alarmed at the hints she is supposed to have received from Prussia; the French flag flying at the Cape, ours upon the walls of Trincomale; not daring to come out with the fleet, though we had detached our whole force to the Mediterranean; and lastly, with the power which the Minister knew he had of giving satisfaction to America: it is not preposterous in argument to assert, that however conscious of the utility of peace, it was to be pursued with dignity, and obtained with honour and with justice.

By beginning with America, and by endeavouring to meet her wish, I think we acted wisely: and in conformity with the idea that it was proper to make the concession so often insisted upon, in order to lower the tone of another power, what was it natural to have said to her? "You have carried your point. We withdraw our fleets and our armies. We keep no possession ever claimed by the thirteen Provinces. Your independence is perfect. Beyond the common commercial stipulation of mutual advantage and mutual benefit, we have nothing to urge but that in which our honour, our justice, our humanity, our religion is concerned,—safety and protection for those who have embarked so deeply in our cause. This must stand at the head of the treaty, this must

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be a *sine qua non*." In the advancement of the negotiation, if it had been urged on the part of the United States, that the retaining large tracts of country behind them to plant with persons of different political principles, might be little better than laying the foundation of new war and new disturbances; I know not what parts of the empire this country might, in that case, have thought proper to disunite, but if tired of colonization, she had relinquished the fertile banks of the Ohio, the paradise of America, it must have been to have rendered more secure the safety of those persons, for whom she was so deeply interested. If this appears to any one right to have been done, let us see what has been done?

When the minds of the people of England were hardly brought to bear the idea of establishing the American independency, but when the progressive disasters of the war made it seem to be unavoidable, a thunder-cloud breaks upon us on a sudden, and we are told that a tract of country, equal almost to a third of Europe, is added to that which we were in some measure prepared to lose. All Canada is in fact lost to Great-Britain. All the country, from the Alegany mountains to the Mississippi lost. All the forts, settlements, carrying places, towns, inhabitants upon the lakes, lost. The peltry and fur trade lost. Twenty-five nations of Indians made over to the United States, together with the three principal forts of Niagara, Michilimakinac, and Detroit, which last, I understand, has ten thousand inhabitants around it. All opportunity of procuring masts (at least by any thing that appears) from Penobscot-bay, &c. &c. and all this without the smallest apparent advantage resulting to Great-Britain in return for these amazing concessions; not even that solitary stipulation which our honour should have made us insist upon, and have demanded with unshaken firmness, a place of refuge for those miserable persons before alluded to, some port, some haven, for those shattered barks to have been laid up in quiet!

But it will be said, "all Canada is not given up. Besides, observe how the line of division strikes the center of the lakes, and so gives a reciprocal trade; and, if that does not satisfy you, consider and be comforted with the free navigation of the Mississippi."

You had better have ceded all Canada, than have given into this mockery of keeping the two ports of Montreal and Quebec, (for they are no other than mere ports, without the trade of the interior country) to be supported from this

country with much expence, and a sufficient subject for future war. You may as well fancy that by keeping the fortress of Gibraltar, you command the trade of Spain. The Lake Michigan, which is given up, sends two-thirds of all the peltry by the north to Europe. The Canadian merchants have been at enormous expences in erecting forts and storehouses on its banks. What reparation is to be made for the transfer of the whole trade to other powers, and by another channel to the south? None, excepting the benefit to be received by the divided trade of the Lake. Tell a man he shall have a free right of navigation on the Thames, and excepting passing the locks, he may do what he pleases; what will be his obligation? If the intention has been to deceive, the manner of deceiving is clumsy. For it would have been better to have drawn the line of boundary, so as to have left the lakes with us, and just to have slipped Niagara, its fort and carrying place, into our enemies share. Many might have been ignorant of the real importance of the seeming blunder. Niagara might be represented as a cascade, a beautiful object of nature not worth quarrelling for, though in fact it is the tunnel into which the whole northern trade must run.

But we keep the navigation of the Mississippi! And so we might say that we keep that of the Rhone or the Rhine. We are not possessed for three thousand miles of a single acre of its shores; and West Florida, where the Mississippi meets the sea, is by the treaty in the hands of the Spaniards. To what sort of understandings is this fallacy addressed, or for what description of rational beings is this delusion calculated? This brings me to another consideration, of which I shall only touch the surface, to awaken the attention of others more equal to discuss a subject of this magnitude, the right of the Crown to dismember the empire without the sanction of Parliament; and, for the sake of making peace, to resign a territory not acquired during the war. If such be the inherent prerogative of the Crown, it goes to this, that the King, for the sake of making peace, may transfer the seat of empire to any other part of his dominions, Ireland for instance, and may make over this island to France or Spain, or to the Pope.

There is certainly sufficient to be collected in different writers, to fling an unlearned mind into doubt and perplexity upon this subject. Bourlamaqui expressly says, that "If there be any such thing as a patrimonial kingdom, it is evident the

King may alienate the whole, or still more, transfer a part. But if the kingdom be not possessed as a patrimony, the King cannot by his own authority transfer or alienate any part of it, for then the consent of the people is necessary. Sovereignty does not imply a right of alienation." — "But if only a part of the kingdom is to be alienated, besides the approbation of the King and that of the people, it is necessary the inhabitants of the part which is to be alienated should also consent, and the latter seems to be most necessary."

Vattel has these words: — "The Kings of England have the power of concluding treaties of peace, and of making alliances; but they cannot alienate any of their dominions without the consent of Parliament."

"The assembly held at Coloynac, after the return of Francis I. from his imprisonment, would not ratify the treaty of Madrid, but held that the King could not dismember the empire."

What was the case of the impeachment of the Earl of Clarendon, on the article for advising the Crown to the sale of Dunkirk. The seeming difficulty on the side of the accusers, was to prove that Dunkirk had ever been fairly affixed to the Crown; for there appears not to have been any contradiction of the assertion, that if it had been so affixed, the King could not have parted with it without the consent of Parliament. The case of Gibraltar, by the treaty of Madrid, applies equally. When it was urged that a promise had been made to Spain to cede that fortress to her, it was argued, without difference of opinion, that it was impossible, because the sanction of Parliament was necessary for such a dismemberment of the empire.

If it should appear then, that the Minister has ceded to America with lavish profusion, yet this it may be said, secures all the advantages you have in the treaty with France and Spain. —— Where are we to look for them? On the coast of Africa? We shall know why we are sent back to the year 1755, in the article relative to the gum trade.

Will they appear by the moderation with which France has allotted to herself, her exclusive share of the Newfoundland fisheries?

Will our advantages appear by the manner in which we are obliged to resign Tobago,* without making any one stipulation for an inhabitant of that island? And yet it is in the West Indies, that we seem to get something in return for what we are to give.

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Are we to look for them in the East-Indies? But here our view is interupted, for what avails the discussion, till we know what is to become of Holland. Will France remain at the Cape, and suffer us to keep Trincomale, or does she intend to humiliate us still farther, by setting us an example of national honour, and by not deserting those she has brought into distress and danger?

After a summary recapitulation of his arguments, the noble Earl moved his amendment, by which the original motion run thus: "To return our thanks to his Majesty for the communication of the Preliminary articles of peace, and for having put a stop to the calamities of war, by a peace, which being concluded, we must consider as binding, and not to be infringed without a violation of the national faith.

"To assure his Majesty that we feel, in the strongest manner, the obligation of affording every relief, that can alleviate the distresses of those deserving subjects, who have exposed their lives and fortunes for the support of Great Britain; and at the same time, we cannot help lamenting the necessity, which bids us subscribe to articles, which considering the relative situation of the belligerent powers, we must regard as inadequate to our just expectations, and derogatory to the honour and dignity of Great Britain."

Earl of Coventry.

The Earl of Coventry could not agree with the noble Earl, that the preliminary articles merited the reprobation of their Lordships. He did not think them so highly advantageous as we might desire; nor such as we might covet; but surely after such a war, and in such circumstances as we now stood, they were not to be considered as inadequate and unfair. Peace was always desirable.—The advantages arising from it were numerous, and from the present peace they would be soon experienced. The man of landed property had no more taxes to apprehend; his burthen indeed was already great enough; the peace if it did not make it less would at least save him from the danger of making it more; those who had property in the funds would find their profits increase, and their security strengthen; — two circumstances of the most agreeable nature,—these to him were reasons against agreeing with the noble Earl in the amendment he had proposed.

Lord Walsingham.

Lord *Walsingham* spoke next, and entered at considerable length into the merits of the preliminary articles; the noble earl he said, who had moved the amendment, had gone with so much more weight, precision, and argument into the matter before the House, than he could possibly pretend to do,

that a great part of what he intended to have offered to their lordships consideration was rendered unnecessary.

No approbation, he observed, was desired of the preliminary articles with France and Spain; they were called upon in the address proposed to thank his Majesty for having concluded peace with those powers; but with respect to the provisional articles with America something more was desired, by its expressing the satisfaction which the House felt at the *foundation* of peace laid by these articles; to these words, or to any thing that expressed this meaning, he must object, because he could not consider the foundation of peace which these provisional articles were calculated to lay, as either advantageous, or desirable, he felt very great uneasiness and concern at opposing an address of thanks to the King; he had no wish to embarrass ministers, but he claimed his title to consistency; he must manifest the principles which he had always held, and deliver his real opinion upon a matter which was so near his heart.

He would not go over the whole ground of the provisional articles; but would confine himself merely to the objectionable parts, these were the boundaries between the American States and Canada the cession of East Florida; the abandonment of the loyalists and of the Indian nations to whom we were bound, by the faith of positive treaties, besides the obligations and the ties of friendship and honour.

The question of the independence of America he acknowledged to be entirely over: this was given up by the resolutions of the House of Commons last year and by the bill for enabling the King to treat with America; which if it did not convey the power in so many express words, yet surely tended, and was understood to tend to that point. The probable intention of that bill was declared by the address of the two Houses on the opening of the present session, in which they thanked the King for the exercise of his power in offering to declare them free states, and for sacrificing his own opinion to the opinion and wishes of his people; another proof that this was the intention and powers of the bill, they had offered by Sir Guy Carleton in his public letters, which were that Independence was not to be made the condition of a general treaty of peace, but was offered freely, fully, and unconditionally: this therefore, whether it was a wise measure or otherwise was not to be taken into the present question, as imputable to his Majesty's ministers in the negociation for peace.

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To the boundaries established by the provisional articles he had four objections, 1st. That thereby the province of Canada was rendered insecure; 2d. That the fur trade was by this means totally and absolutely lost; 3d. That several hundred millions of acres of territory were ceded; but above all, 4thly, That all faith was broken with the Indians who inhabit that part of the country; the trade was lost because we could no longer command it. It must now, says his Lordship depend on accident, rivalship, jealousy, caprice, self-interest, even on mutual friendship, to be permanent.

The noble Lord gave a view of the present and past state of the province of Canada; by which he shewed that in this new regulation of boundaries the lakes were given up, and the harbours without even a stipulation for a free navigation: the forts which had cost the nation so immense a sum were also delivered up. After expatiating on the impolicy of this conduct, he asked why if the forts were to be given up, it was not at least stipulated that they should be dismantled — why not take care that when they are to be put into the hands of a rival they shall be as little injurious to us as possible. As it was they were delivered up, and through them we were to hold our Canada trade in future at the mercy of the United States. He particularly mentioned the important fort of Missilimachinac; this was the rendezvous for trade of the whole province, and this was forty miles within the American line of boundary; the communication between the lakes Superior and Huron, was delivered up; and we were to navigate the lakes also on the most disadvantageous side; the current set in on our shore and therefore that side was of no use to traders; the eddy set in upwards on their shore. The lake Michegan was commanded by Missilimachinac; he dwelt on the use and the importance of that lake, the Indians subsist around it, there they hunt, and here the skins are to be purchased; it communicates with the Missisippi, and its value was therefore very great; nothing could be so absurd as to stipulate for the navigation of the Missisippi, and yet cut off all communication with it: what was meant by the navigation off the Missisippi as agreed on in the treaty, he professed he could not tell; it would have been a valuable provision if properly managed; if we had had the possession of the lakes — it the communication had been preserved to us, it would have been truly beneficial; for its means of internal navigation were immense from its tributary lakes and rivers. On the whole, he said, the precarious state of the fur trade would be the

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means of its total annihilation. Merchants would not adventure on a traffic so clogged, and he begged to inform noble Lords that this was a very important branch of our commerce, the exports from hence to Canada were 500,000l. per annum: and the imports nearly half as much.

The insecurity of the province of Canada, after these boundaries were established, was another argument in his mind against them. Having given up the forts which awed the Indians, we could no longer be protected from their ravages. Their lust of plunder, their revenge for our shameful and unpardonable treatment of them, would give rise to scenes of cruelty, from which the civilized heart must revolt with abhorrence; and the sufferers would be our own innocent fellow-subjects. The insecurity of the province on the side of Lake Champlain, was an important object. Why not stipulate at least for the free navigation of that lake? It was the key to the province; when that was lost, and Point at Fer, Crown Point, and Ticonderago, nothing was left to defend us from the incursions of an enemy. Such was the fallacy of this line of separation, and such were the dangers which it was likely to give rise to. We had experienced the good which these posts might have in future afforded us, as a line of defence. Their Lordships must all remember the action three or four years ago in Lake Champlain. The province of Canada depended on that action, there was a wonderful exertion made there, and there was great naval eclat. Now we were left to depend on the good faith of our neighbours; or we must have the same army in peace as in war, namely eight thousand men, and a military establishment. The prodigious expence of the military government of Canada need not to be told. It had cost this country between two and three millions from the beginning of the war to December 1781 only; it had cost much more since that time; at least four or five hundred thousand pounds per annum, but more last year, and part of this sum was employed in building these very forts, which are now given up as a present.

The noble Lord said that there was a mistake in the treaty about the boundary line. The treaty says, it is to run till it strikes the Iroquois or Cataraqui. This is liable to mistake; it should have been the St. Lawrence or Cataraqui. The Iroquois goes from the Lake Champlain into St. Lawrence, and the difference in this one article is five thousand square miles of the best part of Canada.

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With respect to the Indian nations, the Iroquois were cut off from us for ever, as well as all their tributaries and allies. The cruelty and perfidy of this fact was beyond his feeble powers of description: they engaged in all our wars; in the present contest, they were invited by the most flattering and seductive professions. General Burgoyne's proclamation promised them rewards in proportion to their zeal.—They accepted the condition; in their answer they promised obedience; they refused the offers made them by America; they served us well, as a testimony of which he begged their Lordships to refer to the letters of Colonel Butler. What was the reward which they were to receive? what was their present situation? Their calamities were little known, but they were unspeakable. They were driven compleatly from their country, and were encamped, four thousand in number, at Niagara, at that very moment, living on the expence of Great Britain. They cost the nation an amazing sum. In the name of policy, why not stipulate for their return and peaceable possession of their native lands? Humanity, interest, policy required it. There was a stipulation of the kind in the fifteenth article of the Treaty of Utrecht; and the same thing was done in the capitulation of Quebec. By the treaty of Utrecht they were called the five nations under the dominion of the British Crown; but we were peculiarly bound to protect them, by the good faith and the obligation, of our own treaties with them. In 1701, they made over their dwelling and hunting lands to England, on the solemn condition that they should be protected for ever. In 1726, the treaty was renewed; the King accepted it in trust for ever, and pledged himself to defend it. Again, in 1746, the compact was repeated at different congresses; and in a variety of meetings the most solemn assurances had been given to these unhappy people from the Crown, that they should be for ever protected. Who would approve of the restitution of Albany? and who, that had any feeling for men of honour, would approve of our giving up and abandoning Sir William Johnson? Above twenty thousand pounds sterling of his estates were confiscated already; his voluntary zeal in our service, his conduct in heading the Indians, in order to moderate their cruelty, was laudable in the extreme; and the effects that he had produced by his influence among them, were spoken of in the highest terms of praise. How different was his reward now, and in the last war! Then the House of Commons voted Sir William Johnson a reward in money,

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and they addressed the King to confer on him a mark of honour, which he now bears.

The Southern Indians were equally neglected; we had abandoned to one common lot the Chactaws, the Chickaws, the Creeks, and the Cherokees. How different was the policy of that great and dignified statesman the Earl of Chatham! witness his honourable rejection of the boundaries of Louisiana, proposed by Mr. de Bussy, because it would exclude these nations who were under the protection of Great-Britain. Our treaties with them were solemn, and ought to have been binding on our honour. They were to be seen at the Board of Trade, and that in the year 1730 was printed.

The noble Lord now came to the cession of East Florida. There were two points which pressed to his consideration on this article; the first was a doubt as to the right of the Crown to make the cession; and secondly, that if it were clearly consistent with the royal prerogative to make the cession, it was highly impolitic to do so without the usual stipulations. On the first of these points it would not become him to give a positive opinion in the presence of such judges: but writers on the law of nations did give positive opinions. There was a material difference, they said, between patrimonial and usufructuary kingdoms. In the first, cession is good as to the State, but the people may resist; in the last, where the kingdom is given by the free consent of the people, the sovereign cannot alienate it. The act is void, and a fundamental law of the State is violated. This is their general reasoning on the subject, says the noble Lord, but I do not know how far it applies to us. The question is indifferent; if the cession is illegal, an act of Parliament will legalize it for this occasion, or indemnify ministers, if necessary: but why not stipulate for the free exercise of their religion to the inhabitants, and for permission to sell their effects, and retire where they pleased? What was stipulated for the loyalists, who were invited here under recent proclamations to settle, and withdraw from usurped government? Nothing.

He now came to his last point, the Loyalists. On this subject, the noble Lord who moved the amendment, had spoken with so much feeling, that he believed he had made a very strong impression on every one who had heard him. He assured their Lordships, that the noble Earl had most forcibly aroused his feelings, and he could neither think nor speak of the dishonour of our treatment of those deserving men with patience. Their claim upon us was self-evident; they had been

been invited to join us by our own acts; it was a parliamentary war, and therefore it was the more incumbent on the legislature to protect them. The Crown had no separate interest in the war; the addresses to the King from every part of the country, proved that the people of England considered the war as necessary, since its object was the preservation of our just dominion. Parliament should be consistent. He begged their Lordships to look at the resolutions of Parliament in 1766, and see by them, if, in order to be consistent, they ought not to have observed a very different conduct in regard to the Loyalist. The noble Lord pointed out the fallacy of the fifth and sixth articles, and he asked if any one of their Lordships entertained just expectations, as the address stated, that these articles would be complied with. The address stated, that Congress had undertaken to recommend it to the provincial assemblies, and it was no such thing; Congress had not yet ratified the treaty: perhaps they had said, that they would ratify the treaty; but it should have been stated on the face of it, that the American Commissioners had produced their full powers as the European Ministers had done. These full powers ought not to be mere form of words—not matters of course—but a solemn promise to accept, perform, and ratify all that should be done in their name. There were two propositions contained in the fifth and sixth articles; the security of the persons of those to whom the articles relate,—and restitution of their estates. He begged their Lordships to see how the effect would be in both cases. The treaty was not superior to law, and that there were positive laws enacted by the provincial assemblies, directly contrary to these provisions, he need not inform their Lordships. He quoted several of their laws of banishment—declaring persons by name aliens—forbidding their return—the punishment if they did return, being, that they were seized by the sheriff of the county where they were seized, and by him made over to the Board of War: by their sentence, they were to be transmitted to some of the British dominions; and if they should after this presume to return, they were to be punished with death, like felons. While these laws were in existence, the sheriffs must obey them; they could not take cognizance of the treaty—the laws are compulsory on them—they have no discretion—and therefore it was nugatory to stipulate for these unhappy men going into the Colonies, and staying for twelve months to endeavour to regain their estates. Beside the law of banishment, the

law of confiſcation would operate againſt theſe unhappy men; the noble Lord pointed out its proviſions, and ſaid that it was recommended by Congreſs originally—under this law the effects of the loyaliſts were ſold for public uſe — the legiſlatures of the reſpective provinces had warranted the titles to the purchaſers for ever.

Suppoſe then that the poſſeſſors of theſe eſtates will not part with them; how can the loyaliſts force them, the States connot compel them without a breach of faith; and how is the injured owner to buy it without money? Suppoſe that an eſtate had been parcelled out and ſold to twenty perſons, how would it be practicable to aſcertain the price? beſide the danger of ſubſequent transfers, all theſe difficulties occurred, even ſuppoſing that reſpect and attention was paid to the recommendations of the Congreſs; but we had only the recommendations of Congreſs to truſt to: and how often had their recommendations been fruitleſs? there were many caſes in print in which provincial Aſſemblies had peremptorily refuſed the recommendations of Congreſs. It was but the other day the States refuſed money on the recommendations of Congre s. Rhode-Iſland unanimouſly refuſed when the Congreſs deſired to be authorized to levy a duty of five per cent becauſe the funds had failed: many other inſtances might be produced of the failure of the recommendations of Congreſs, and therefore we ought not in negotiating for the loyaliſts to have truſted to the recommendations of Congreſs: nothing but the repeal of the acts exiſting againſt them ought to have ſufficed, as nothing elſe could give effect to the treaty. Repeal was not mentioned — they had only ſtipulated to reviſe and reconſider them, a mortifying and humiliating diſtinction was made in prejudice of thoſe who had borne arms for Britain: to this we ſhould never have conſented; their ſervices claimed the utmoſt gratitude, and we ought to have hazarded almoſt every thing for them; what had they not ſacrificed for us! had they not left their families? had they not left their country? had they not riſked their lives, and made a common cauſe with us; and what was the perfidious and ungrateful return? We had abandoned them to the fury, the enmity, and the revenge of their countrymen. It was a moſt impolitic as well as a moſt diſhonourable conduct. Faith, truth, juſtice, all that was ſacred amongſt men and nations muſt diſdain and reprobate it; it would be a ſtain on our character as a people to the lateſt poſterity; and muſt, if there was nothing elſe offenſive, and diſadvantageous in the preſent peace, ſtamp

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it as the most ignominious of any that this country in the very lowest circumstances concluded; in conclusion therefore he must declare that he could not give his consent to an address in which they were called upon to return thanks for a treaty stamped with such disgraceful conditions as he had enumerated; and he should therefore vote for the amendment.

Ld Hawke.

Lord *Hawke* did not agree with the noble Lord who moved the amendment, nor with the noble Lord who spoke last, "that his Majesty's Ministers had concluded a treaty derogatory to the honour of the Crown, and detrimental to the interest of the country."

Before he entered into the arguments of the noble Lords, he called the attention of the House to the state of the country, distracted by intestine divisions, every man thinking differently, except when united in some favourite scheme of party.

He stated that our enemies were determined and firm: In Europe we had not only the French, Dutch, and Spaniards, combined together against us, but the ill offices and ill wishes of all the neutral powers. In America our fleets, from the strength of the French islands, and our want of troops, cruized only to exhaust the resources of their country. He then dwelt largely on the storm that was gathering in the East, maintained that we had no peace with the Mahrattas; that Hyder's army had rendered the Carnatic one universal scene of famine and slaughter; that we had gained some victories indeed over him; but that he retreated like a lion, only to turn back more dreadful on his pursuers. The sun of victory, said his lordship, which gilded our prospects in the East, was on the decline, the black clouds of distress were gathering fast.

He then stated the points in which he differed from the noble Lords: the case of the Loyalists; our loss in the fur trade; the cession of Florida; and the general argument relative to the advantage or disadvantage of the peace.

He denied that the Loyalists had been abandoned; and, after paying them every proper compliment, said, that he should support no Minister who would countenance such a measure. — In America, said he, Congress had engaged to recommend their cause to the legislatures of the country: what other term could they adopt? He had searched the Journals of Congress on this subject: what other term did they, or do they ever adopt in their requisitions to the different provinces? It is an undertaking on the part of Con-

greſs: that body, like the King here, is the executive power of America. Can the Crown undertake for the two Houſes of Parliament? — it can only recommend. He flattered himſelf that recommendation would be attended with ſucceſs; but, ſaid he, ſtate the caſe, that it will not; the liberality of Great-Britain is ſtill open to them, Miniſters had pledged themſelves to indemnify them not only in the addreſs now moved for, but even in the laſt addreſs, and in the ſpeech from the throne.

With reſpect to the fur trade, he ſtated that the great object of the peace was a reconciliation with America; that the Houſe of Commons laſt year had laid down the arms of the nation; that they had made a peace neceſſary, by declaring the man an enemy to his country who ſhould take up arms againſt America: it was therefore, ſaid he, the duty of Miniſters to effect a reconciliation on ſuch grounds as would prevent another war. He reminded their lordſhips of the proclamation in ſixty-three, which narrowed the boundaries of Canada ſtill more, and excluded the Utawa country: he ſtated the diſputes between the French and the Colonies, previous to the war of fifty-ſix: he aſſerted that the beſt furs were to the north of the lakes; and aſked whether a monopoly of the fur trade was an object, when it not only might create another war, but would certainly alienate thoſe affections which we had purchaſed with the price of independence.

With reſpect to the ceſſion of Eaſt Florida, after ſaying that Spain by the local ſituation of this province was a natural enemy to America, and after ſtating the effect this ceſſion might have on the family compact, and the French connection with America, he entered into the argument whether the Crown could cede that province, and maintained that ſuch privilege was inherent in the power of making war and peace; that one power could not exiſt without the other; the end without the means. He cited Puffendorf; the caſe alſo of merchants, whoſe goods are thrown into the ſea to ſave the veſſel: he ſtated that the proprietors of Eaſt Florida were in a ſituation ſimilar to thoſe merchants; that they were entitled to a compenſation; he laid in his claim in their names, and ſaid he flattered himſelf they had every fair thing to expect from the juſtice, liberality, and good ſenſe of his Majeſty's Miniſters.

With reſpect to the advantage or diſadvantage of the peace with the Houſe of Bourbon, he ſaid, that could only be known by an accurate ſtate of what we had gained and loſt,

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and how far it affected our commerce, or a future war. He maintained that we were in a better situation by the exchange; that we had yielded up nothing but what might be easily recovered; and that we had gained what a two years war could not have re-captured: our commerce had received a benefit much greater than its loss, — above two-fifths of all the exports and imports from the sugar islands. It was then fair to conclude, that we had made an honourable peace; because we had not only acquired more, our expence considered, than we could have purchased by victory; but we had escaped from a confederacy greater than any in history: we had stood forth [illegible] our Ministers therefore had, like able negotiators, seeing the springs of the national power stretched beyond their force, concluded the peace. Here his lordship quoted Abbe Mably's Introduction to the Public Law of Europe, as applicable to the situation of a country accustomed to force the springs of its power, and consequently induced to form projects beyond its strength, by which every advantage of war, or negotiation, serves only to hide the precipice near which it approaches. His lordship then concluded by enlarging on the example of the Romans, who took care never to have two quarrels at a time, and waited to be revenged until they could do it without an effort, managing their strength in proportion to their wish to extend their empire.

Lord Viscount *Dudley* declared the terms of the peace to be, in his mind, totally inadequate to our situation and pretensions; and he could not by any means approve of the address.

Lord Visc. Dudley.

The Duke of *Chandos* thought the contrary. Our condition was such as demanded an immediate peace, and on a review of every particular, it would be found to be more than equal to what we had a right to expect. These were not the times when men ought to oppose government on factious principles. Nothing but unanimity could save us; and in his opinion no person who had really the interest of the empire at heart could say that the present peace was not desirable and advantageous.

Duke of Chandos.

Lord Viscount *Townshend* was very pointed in his remarks upon the conduct of administration, who his lordship contended had disgraced this country beyond all former instances. To desert men, who had constantly adhered to loyalty and attachment, was a circumstance of such cruelty as had never before been heard of. What was to become of the poor American

Lord Visc. Townshend.

American officers too, those who had drawn the sword in defence of this country? They were deserted likewise, and left to seek their fortunes any where out of English protection. The poor Loyalists should have had some tract of land assigned to them, where they might have lived free from oppression, wanton cruelty, and resentment. His lordship severely censured the boundaries as described in the preliminary articles, and imagined, that as the Americans had taken such care to secure what they had negotiated for, they would in the end take all Canada into their hands They had evidently been too cunning for us in their negotiation. Why could not some man from Canada, or respectable Canadian merchant, who had been well acquainted with the country, have been thought of for the business which Mr. Oswald had been sent to negotiate? Dr. Franklin, Mr. Jay, and Mr. Laurens had been an over-match for him, he either did not know, or appeared ignorant how the country lay, that he had been granting away, as the bargain which he had made clearly indicated. The articles with France were full as exceptionable as those with America. The admission of that nation to a participation of the Newfoundland fishery, was a piece of the most dreadful policy and concession that ever disgraced a negotiation The very thing which reared us so many fine seamen, was to be divided with that nation which was our natural enemy, and at all times inclined to dispute the sovereignty of the ocean with us. In the East Indies the advantages allowed them were almost as great. They were to be at liberty to make a ditch round Chandernagore, for the purpose of draining it. This might be an innocent thing enough; but suppose it was converted into a regular fortification and had ramparts; were these things beneath the consideration of Ministers? Such an instance had occurred before; and the East India Company did, without ceremony, fill up the ditch; but now it was allowed by treaty, and the French would no doubt take the advantage of it. But still a more extraordinary thing than this was, the engagement entered into on the part of Great Britain, to procure a dependency round Pondicherry, which must of course be taken by force of arms; some nabob perhaps must submit to its being wrested from him.

The articles with Spain came next under his lordship's consideration. It was necessary to cede them something, and they had got Minorca. This his lordship was not sorry for. He once trembled for the fate of Gibraltar. He was afraid

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that important garrison was to have been the sacrifice. Whatever might be thought of Gibraltar, he held it in the highest estimation. Some people reckoned the value of things by pounds, shillings, and pence, and others by different methods of computation. Gibraltar ought to be for ever retained in the possession of this country; it intersected the two great ports of refitment of France and Spain, and on that account was invaluable. But why we had granted Spain the possession of Florida he could not comprehend. It would be a most severe check to us. He could have no idea of the meaning of the navigation of the Mississippi when we had not a foot of tract. His lordship concluded by expressing his approbation of the amendment proposed by the noble Lord near him, whose sentiments on the occasion had done him the greatest honour, and would accompany his name to posterity with every testimony of respect and admiration. He agreed with him in every particular, and could not vote for an address of thanks to the King on the conclusion of treaties in which there appeared the most gross and unpardonable ignorance, to say no worse of it, and the most criminal inattention of the interests of the empire.

Duke of Grafton.

The Duke of *Grafton* lamented in very strong terms the want of that unanimity which the present period, of all the epochs in the history of this country, most strictly claimed; and from the unanimity that prevailed in the commencement of the session, he was in hopes that the address would have passed without the comments that had been made upon it. An empire dismembered demanded peculiar care. Did Great Britain find that care now? He was grieved to answer — no! In the course of the last week, instead of men of rank and weight in the great concerns of the nation applying themselves to the investigation of the true extent and meaning of the preliminary articles at present under consideration, what were they doing? why, truly, intriguing and struggling for the places of trust. Fie! fie! does this become the noble character of a patriot! said his Grace — certainly it does not. The country knows, we all know, the horrors and miseries of war. For heaven's sake! now that we have gotten peace, let us not by our idle bickerings deprive ourselves of its blessings, to which we have so long and so unhappily been strangers. Do not let us oppose this peace from factious motives, or by our cabals and parties within doors strengthen the spirit of discontent and clamour that is but too visible in the country. It would have a strange appearance abroad that

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their lordships should join together in interested bodies to oppose a measure which was so necessary to our salvation. What is it, my noble Lords, we are now disputing on? Is there any precise point on which an argument can by any possibility be reared? — Not an atom. Does this address tie you to the approbation of the peace? — No, it does not. It only goes to thank his Majesty for conforming to your wishes, by making a peace. If the peace be really inadequate, if it be really dishonourable, — then another, a more direct, a more vengeful road is open to you than the present, to get at the delinquent administration openly, and not by this side-wind attack on the offenders, drag them in open day-light before the tribunal of their country, accuse them in open language. Let it not be said, that by [illegible] or inuendo, the character of any free man in this country, much less the character of one of the first rank next the throne, should be filched away. There can be no defence where there is no accusation. You will not, my Lords, say, that an assertion is such a charge as can by any means be defended. This would be fighting against a shadow. Substantiate the outcry against this peace with any thing that has the semblance of proof, and then the advocates of it will be warranted by common sense in their notice of it. It is base; it is dishonourable, it is cruel; it is damnation, — according to the noble Lord's idea who moved the amendment. Why, truly, all these epithets may catch the ear of such as know not what reflection is: but here, my Lords, they are spent in air. This language in this place is *vox et præterea nihil*. With respect to the peace, all circumstances considered, it was as favourable a one in behalf of this country, as she had any right to expect. It had not been concluded upon without first being duly considered, and every circumstance maturely weighed. Those who wished a continuation of the war, should consider how sufficient resources were to be found for the purpose of carrying it on. These there would be great difficulty in finding; the nation had been greatly exhausted, and it became necessary to conclude a peace upon the best terms that could be procured, and Ministers had succeeded beyond his expectations in their endeavours. Was not it time to make a peace when our fleet in the West Indies, though superior for three months past to that of the French, could not recover even one of our lost possessions? According to some late and very authentic advices, it was well known there were in Cadiz bay sixty sail of the line, ready for an expedition

dition to the West Indies, a little time previous to the conclusion of the peace. These ships were to be joined by others from the Havannah with troops on board. There were likewise seventeen thousand troops in the island of St. Domingo ready for embarkation against Jamaica, and which was intended shortly to have taken place. It was then for noble Lords to consider what our inducement could be to carry on the war another year, and at the expiration of that time, how much our situation would be improved by it. From the circumstances he had mentioned, the temptation was not very great. The fleet in the West-Indies would not have been equal to that which was destined for that quarter of the world; and it was so much confined to situation, that the instant it fell to leeward, Antigua must have fallen.

Lord Viscount *Keppel* said, that in a late situation, which he unworthily filled, he had made it his particular study and care to put the navy of this country upon the most respectable footing. He thought the noble Duke exaggerated the account of the Spanish navy; it might indeed be numerous, but many of their ships were foul. According to some accounts that his Lordship had lately received, two or three were careening at the Havannah, and several very much out of condition in other places. The French had still more bad ships than Spain; their navies amounted together to about one hundred and twenty-three ships of the line, that of England to about one hundred and nine. What the noble Duke had said about the West-Indies had nothing so terrible in it to his Lordship. If the ships his Grace had mentioned had chosen to have gone to the West Indies then, and to have made a lodgement of the troops said to be in the island of St. Domingo, they must have come to an engagement, which would have been decisive, and the event of which his Lordship should not have feared to have risqued. He begged to inform his Grace that let the French or Spaniards have taken what course they would in the West-Indies or elsewhere, we had force to oppose them, both of ships and men, and that we were ready at the time alluded to by his Grace for active war, which was in contemplation. We were fully prepared for either offensive or defensive war. When his Lordship computed the navy of England at one hundred and nine ships, he included those which would be ready for service by May next. With such a navy as his Lordship had described, compared with that of France and Spain, could we be said to have gained that peace which, comparatively, we had a right

Lord Viscount Keppel.

to expect? No, by no means. He stood in a particular situation from the office he had lately filled, which, however, he was under the necessity of resigning, because he could not advise his Sovereign to conclude a peace, of which he did not in his conscience approve. We ought to have had a better peace, our situation entitled us to it. We had made an inglorious one, with ten ships of the navy of France in our possession; and they had not, at that time, one of ours. His Lordship mentioned the seven ships taken by Lord Rodney, and three others that fallen into our hands, all of the line. He reprobated the peace in the strongest expressions. He was unfortunately an obstinate man, and he had an opinion of his own. It was an opinion, however, neither founded on party, nor slave to interest; it was an opinion that he could not give up, because his mind was not convinced that he was in an error. As to the censure conveyed in the amendment, it might probably be wrong; but as to the address, he was confident he ought not to subscribe to it, and therefore he meant to dissent from the noble Earl who propo ed it.

The Duke of Grafton rose to explain.

Duke of Richmond

The Duke of *Richmond* said, that, in considering the merits or demerits of the peace now under their Lordships consideration, it was necessary to take in a variety of circumstances, which would all be found to have their weight in a subject of that importance, which was then the object of their Lordships attention, and without which it would be impossible for their Lordships to form any judgment, and either approve or disapprove of the terms. It was first to be considered what was our situation at the time of making the peace, and how far those who had advised the conclusion, had availed themselves of the advantages of it. The cessions that had been made demanded particular attention, with an eye to the reason that authorised the places being so given up; how trade and commerce was affected in all instances, both in the ceded territories and at home. There were many other particulars not before their Lordships, which it would be requisite for them to take into consideration, previous to the formation of a right judgment upon the matter. Such as the instructions to the agents, the letters in various correspondence on the point in question, the characters, the conduct, and the instructions of the principal agents in the business. Nay, oral conversation on the subject would form a great part of what they ought to scrutinize. And above all, they should not omit the minutest investigation of the relative force and weakness of the belligerent

erent powers,— the situation of their cabinets, — the state of Europe in general — the probability of new wars, — and the prospect that there was of our gaining alliances.—A variety of more minute matters, which yet the good sense of every noble Lord who heard him would, upon reflection, be convinced must be absolutely necessary to examine and compare, before, in fairness and strict justice, a matter of such importance, as well to the Minister individually, as to the nation in general, could possibly be decided on. However, if one must form an idea of it partially, from the few materials before the House, his Grace freely owned he did not like the terms of the treaties. He mentioned his having disagreed in the intention of his colleagues to conclude a peace on the terms of the present Preliminaries. His Grace said, that he should not vote on the question now before the House; he should be happy to support any Administration, whose intentions were to reform the abuses of the state; but he meant to oppose, strongly and firmly oppose, a Ministry in which were concerned any one of those men to whose corrupt and cursed system this country stands indebted for all her present calamities.

Lord Viscount Stormont

Lord Viscount *Stormont* entered at great length into the subject. He set out by acknowledging, that he agreed with the noble Duke who spoke last, that a full and fair judgment on this business could not be well formed, without a consideration of all those articles his Grace had so properly described. But yet, how desirous soever he was of with-holding his opinion, it was not in his power to do so. Ministry were resolved to force their Lordships to deliver their sentiments on the subject of the peace, merely from what lay upon their table; they must therefore only blame themselves for the consequences. For my own part, said his Lordship, I would with more pleasure than I can express, read any thing the noble Lord at the head of his Majesty's affairs could offer in defence of his own and his colleagues conduct in the negociation of this peace; for at present there appears to me *prima facie* evidence—evidence, on the first view of the papers on the table, to convince me, that there is the grossest neglect, the most blameable ignorance, or shameful oscitancy in the construction of the present treaties, by which an irremediable wound is given to the dearest interests of this country, and an eternal stain brought upon the British name.

The noble Lord stated with great accuracy the question before their Lordships, viz. "Whether the Preliminary Articles

Articles of peace were such as merited their applause, or deserved their disapprobation." He considered them, for his own part, as injurious to the essential interests, dangerous to the safety, derogatory to the honour of Great Britain, and not warranted or justified by the situation of the war. And first of all he observed, that in limited governments, like Sweden before the late revolution, and like Poland still, it might happen that no treaty of peace could be valid without the ratification of all the estates that composed the legislative power. Here he quoted Burlamaqui on the Law of Nature and Nations. It was contended by some persons, that in such a case as the present dismemberment of America, the prerogative royal of the Crown could not alone conclude a treaty for effecting that separation. But his Lordship did not rest his foot on that ground. The constitution had placed, and wisely placed, the making of peace or war in the executive power; and God forbid, said his Lordship, that I should ever see that privilege wrested out of it. As peace, the noble Earl who had moved the amendment, had said, was concluded, it was not now to be affected by any thing which that House could determine; the peace was to be held inviolate. What his Lordship considered was the fitness or expediency of it, in all those respects that naturally presented themselves to his view, when he considered the articles before them.

He adverted to the shamful ignorance and simplicity, folly and absurdity, that appeared in the negociation and provisional articles of peace between England and the United American States. What reason could be given for sending out such a man as Mr. Oswald, to treat with the four American Commissioners? He was far over-matched by any one of them: Nor would any man compare him to Dr. Franklin, or Mr. Laurens, or any one of the Commissioners—*impar Congressu Achilli*—said his Lordship; for I am sure there was not one of them who was not an Achilles compared with him. But it was not Mr. Oswald, he said, that he had to do with, but those who confided in him and employed him.

The first question that the British agent ought to have put to the American Commissioners, was, whether they had full powers to conclude and agree upon a general amnesty and restitution of goods to all Loyalists without exception? These were men whom Britain was bound in justice, and honour, gratitude and affection, and every tie, to provide for, and protect. Yet, alas, for England as well as them! they were made a part of the price of peace. Those who were

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the best friends of Britain, were, *eo nomine*, on that very account, excepted from the indulgence of Congress. Britain connives at the bloody sacrifice, and seeks for a shameful retreat, at the expence of her most valiant and faithful sons! How different from this was the conduct of Spain to the Loyalists in the Netherlands, in the reign of Philip III. on occasion of the famous truce in 1609, and also in the peace of Munster. Their effects and estates were either restored, or they were paid interest for them at the rate of 6 ¼ per cent. on the purchase money. [Here Lord Stormont repeated several of the articles of the truce between Philip III. and the United Provinces, which was concluded at Antwerp, 1609; which articles were also agreed to at the peace of Munster.] A general act of indemnity was passed, without exception of place or person. Lord Stormont also touched on the case of the Catalonians, who revolted from Spain, once when they put themselves under the protection of France, and again when they put themselves under the protection of Britain. In both cases, their privileges, lives, and properties, were preserved to them. Even Cardinal Mazarin, so artful, so shuffling and fallacious, and I am sure, says he, I mean not the most distant allusion to any of his Majesty's Ministers, (for the Parliament of Paris determined, that to call any person a Mazarin was a reproach to him, and that an action would lie) even he, though so little scrupulous on most occasions, deemed it sound and wise policy to observe good faith with the Catalonians. He negotiated the peace of the Pyrenees himself, and he took care, that an act of indemnity should be published in their favour, on the same day in which a proclamation was issued reclaiming their obedience. History, experience, furnishes no example of such base dereliction. If they do, said Lord Stormont, let any noble Lord speak out, and on this subject I will be silent. From the Loyalists he passed on to our Indian allies, with whom we had had a long connexion, on whom we had bestowed the name of the Children of the King, and with whom, said he, you swore to preserve an inviolate friendship as long as the woods, and mountains, and rivers should remain.

His Lordship next turned his attention to the boundary line that had been agreed on by the American Commissioners, and that very extraordinary geographer and politician, Mr. Richard Oswald. There was, prefixed to the articles of peace between England and America, a very pompous preamble, setting forth that those treaties were the best observed

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in which were reciprocal advantages. He was a long time at a loss to understand the meaning of those words reciprocal advantages. But at last he discovered that they meant only the advantage of America. For in return for the manifold concessions on our part, not one had been made on theirs. In truth, the American commissioners had enriched the English dictionary with several new terms and phrases; reciprocal advantages, for instance, meant the advantage of one of the parties; and a regulation of boundaries meant a cession of territory.

His Lordship then took a view of our concessions on Newfoundland, the ceded islands of St. Pierre and Miquelon, which being fortified, will command the entrance of the river of St. Laurence. The liberty accorded to the Americans to settle in Nova Scotia; the cession of Penobscot, a nursery of masts; the giving up of all that was important or valuable in Canada; the Floridas important for their situation, and agreeable in respect of climate and soil — we might as well have ceded all Canada to them, as to have drawn such a line of separation; for all the forts which commanded the lakes were in their hands, and we were wholly defenceless, and at their mercy, in our navigation of the lakes: besides, we had given up to them by that boundary, a tract of country four times as large as Britain, and in that tract above six-and-twenty nations of our Indian allies, whose hunting grounds we were obliged, by treaty, to protect, and from whom (setting aside those feelings which dignify human nature) we received most essential benefits in the article of their trade of peltry and furs. The noble Viscount dwelt on this topic with great energy, and declared himself at once astonished and confounded at the conduct of the King's Ministers in this respect. From this impolicy his Lordship turned to Newfoundland, and there he complained of Ministers giving to the French near seven degrees of latitude for their own exclusive fishing, and at the same time that we did that, we also gave the Americans a participation in all our fisheries, in all our creeks and harbours, and never made any stipulation for our fishing reciprocally in theirs. The granting of St. Pierre and Miquelon to the French was the next object that met the reprehension of his Lordship. If they fortified these two places, as they certainly might, if they pleased, his Lordship declared our fisheries on that coast to be altogether unsafe, and of course of little or no advantage to us. The noble Viscount referred to the various treaties which had

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been made in respect to this fishery, and shewed what honourable pains the Earl of Chatham had always taken to preserve this fruitful nursery of seamen to the British Crown. By the provisions made respecting this fishery, there would be an end at once put to the British trade. While he was Ambassador at the Court of Versailles, they set up a title to the fishery ceded to them by the peace of Utrecht, unshackled by reciprocity. He wrote home for instructions — and received so clear, distinct, and at the same time so peremptory a statement of the English right to fish in common with the French, on the west side of the island, that they were satisfied, or at least they relinquished their claim for the time, and wisely postponed it, until a moment should come more favourable to their ambition, when, perhaps, there should be an English Minister, so solicitous of power, so anxious to fix himself in his seat, as to hurry a negociation to its end, without care or anxiety for the interest of the state, which he was appointed to govern. He now considered the fishery as irretrievably gone; for there was not a syllable of reciprocity in the treaty, and we yielded, in full right, the possessions of St. Pierre and Miquelon, which they would instantly fortify, and secure to themselves an immense trade. The concessions made to America in this particular, were also very material. The unsettled coasts and bays in Nova Scotia were to be opened to them, and we were to have no power to fish in their bays in return. Eternal jealousies would arise, and instead of securing a peace, we had, in truth, granted all this for the sake of involving the nation in a new war. The cession of the two Floridas he could not account for by any reason, either of necessity or prudence. There was no bargain in the business; for there was nothing granted to England in their stead. The manner in which these provinces were delivered up, was as mad as it was impolitic. — No measure was taken for the security, or the relief of the planters and inhabitants, nor any provision made, by which they might be enabled to dispose of their property if they did not choose to continue in the provinces, subject to the Court of Spain. The noble Viscount then exposed, in glaring colours, the folly of stipulating for the navigation of the Mississippi, when every thing that could make the Mississippi valuable was gone. We had no coast, there was no junction even with the lakes, no communication by which we could transport our furs to any market. In short, the article for the navigation of the Mississippi was an insult on our understandings,

standings, added to all the other injuries done to our property by the present peace.

The noble Viscount passed to the West-Indies. Here there were equal marks of egregious folly. he entered into a long argument to prove that we had it in our power to have made a peace with France without the cession of Tobago. We were in possession of St. Lucia, which, whatever may be its intrinsic value, the French consider as invaluable. We were in possession of St. Pierre and Miquelon, which completely shut them out from the whole of the fishery of Newfoundland; and having therefore these strong points, we should have proposed to agree to a peace on the ground of *uti possidetis*. He was free to own, that this would not have been favourable to us in the West-Indies; but the fact is, that the French durst not agree to it. They durst not give up St. Lucia; they must have the fishery; and therefore, as they must resist the offer of *uti possidetis*, the alternative was plain, let us agree then on the footing of complete restitution. To this we were fairly and fully entitled. But, instead of this, we give up Tobago, an island of the utmost consequence to the manufactures of this country, as well as to its interests in the West Indies He mentioned a manufactory of cotton goods lately established in France, which only wanted the cotton of Tobago to make it the rival of Manchester. That was given to them, and there was no equivalent whatever given to us in return. On the coast of Africa the concessions were subject to the same complaint. We had given up a most valuable trade, and had made such stipulations, in regard to the gum, as would finally extinguish our connection with that quarter of the world. But in the East-Indies, more perhaps than any where else, were the shameful and degrading concessions of the present peace to be found. The delivery of Chandenagore, with a ditch, and the promise to procure territories from our allies, were circumstances so humiliating and injurious, that he could not conceive by what strange fatality our Ministers were actuated in this respect. He entered into a long discussion of the articles respecting the East, and pointed out the injuries done to the Company in a forcible manner. In this quarter of the world we had driven the French from every thing. They had no claims, they had no power, they had no footing, and we might have found in the East-Indies a recompence for all our losses in the West; but the rule of concession was alone regarded by our Ministers in all that they had done. He enlarged on the importance of Dunkirk

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to France. In a war with England, that harbour, opened and repaired, would be capable of containing twenty or thirty ſhips of good ſize and burthen. Theſe iſſuing out, at all ſeaſons, would annoy our trade in its very center, and counterbalance in ſome meaſure the advantages of our local ſituation for commerce. Dunkirk, at the ſame time, would be of no uſe to the French, but in a war with England. In our precipitancy to allow the reparation of Dunkirk, therefore, the language of the Crown, without any exaggeration or colouring, was plainly this: "To ſhew my good brother of France how earneſtly I deſire his friendſhip, I will give him up Dunkirk for the convenience of making war on my loving ſubjects."

Another thing in the treaty with France particularly ſtruck him, as it ſeemed to indicate that the King's Miniſters were as negligent of the high honour and dignity of the empire, as they were of its poſſeſſions. In the article reſpecting the capture of prizes, the Channel was no more called the Britiſh Seas, which, in all the treaties that were made during the preſent century, was uniformly ſo called. This was matter of very great conſideration, at a time when we were conceding every thing that was either the object of pride or of intereſt. This was an inſult which the flippant vanity of France would be fond to give, but which ought not to have been ſuffered. But conſiderations of this kind were beneath the attention of Miniſters of the preſent day, who ſeemed to think that to make a peace at any rate, was to do a meritorious work, and ſuch as the nation of courſe muſt applaud when applied to for that purpoſe. Under that idea, the preſent motion of addreſs was made; not to thank his Majeſty for his gracious condeſcenſion, or to congratulate him upon the return of peace, but to gain the thanks of that Houſe for a work that Miniſters had done, and to go abroad into the world with the ſanction of that vote of thanks, as it might moſt properly be called, and thereby ſet all thoſe who might not be inclined ſo fully to ſubſcribe to the merits of their negociations at open defiance; but he hoped the noble Lords ſaw the intent of this, and would take care that men undeſerving ſhould not be authoriſed by any ſuch high ſanction, but, on the contrary, that all attempts to that effect, ſhould be ſpiritedly ſuppreſſed, and that the approbation of that Houſe ſhould never be unworthily obtained.

If his Lordſhip ſhould be aſked, if the preſent peace was a good one, and ſuch as, under much greater calamities than thoſe we had ſuffered, ought to be accepted of, he would lay his hand upon his heart, and anſwer poſitively, No! He had been brought up in the habits of independence, and would therefore on all occaſions give an opinion accordingly. Would not every man of independence anſwer on the preſent occaſion as he did? Certainly he would; and where was the circumſtance on the *prima facie* appearance of things, that indicated the impropriety of his determination? Miniſters would ſay, that if a peace could not be had on the terms to be wiſhed for, it was expedient that it be accepted of upon thoſe terms which were offered. The principle of this propoſition his Lordſhip allowed, but denied the application. It was a fact to be mourned, that the elements had fought againſt us, and the hand of Providence had ſometimes been felt ſeverely upon us; but we had had no diſaſters that had not been more than compenſated for by the victories of our able and gallant commanders, in the different parts of the world: the ſucceſſes of whom, and their merits, his Lordſhip took notice of in terms of high applauſe.

The conduct of Miniſters by coming down to that Houſe, to ſupplicate its approbation of their actions, was unlike to that of ſome others, who had rendered their country the moſt acceptable ſervices in the ſame ſphere of action; who after having concluded perhaps as ſatisfactory a peace as was within the annals of this country, did not go to Parliament begging its approbation, but left their conduct to the free diſcuſſion, the feeling, and the underſtanding of the nation.

Lord Grantham.

Lord *Grantham* ſaid, that he had the greateſt reſpect for the authority, which the noble Lord had alluded to in the courſe of his ſpeech, and ſhould have thought himſelf exceedingly happy to have had it in his power to have imitated the conduct of that great man, who his Lordſhip had held out to him as worthy of being remembered. Times were changed ſince the peace the noble Lord had hinted at was made, and many concurrent circumſtances rendered it almoſt impoſſible to negotiate ſo well, as to place the nation in that agreeable ſtate which it found itſelf in at the concluſion of that peace.

He aſſured their Lordſhips that nothing had been entered into without firſt being conſidered in the moſt careful manner over and over again, and almoſt every poſſible contingency duly weighed. The difference betwixt concluding a peace with one enemy, and with a hoſt of them, was great, as might

well

well be imagined, and productive of the greatest difficulties in negotiation. Add to this, England was without even a single ally to assist her on the greatest emergency. For his part, he considered the peace as good a one as, considering our situation, we could possibly have had. His Lordship did not perceive the right we had to expect a better. But our reduced situation was in consequence of that blind and unfortunate pursuit of the war in America, by an administration more obstinate than wise, and which war, if continued, would have brought final destruction upon the empire. His Lordship had not, he observed, been greatly in the habit of troubling their Lordships; but when he considered the particular situation in which he stood, he could not forbear to do it; indeed, there was a necessity for so doing. His Lordship said, he scorned to shelter himself from blame, by throwing it upon an innocent man or colleague; and therefore he made no scruple to declare, that the reason why the words the noble Viscount had mentioned as proper to be inserted in the article alluded to by him, viz. Preserving to this country the distinction of calling the channel and north seas, the British seas, was, that by some most unaccountable and unhappy mistake of his own, they had been left out. As soon as he found this, he was exceedingly alarmed and distressed, and took every possible means to remedy the evil. The articles had been sent off with this deficiency, and his Lordship had made an application, in which he was so happy as to succeed, and an instrument was signed and exchanged, calling the channel and north seas the British seas, so that the evil was redressed by the only method that was possible.

His Lordship, in answer to the noble Viscount's objections to giving up the island of Tobago, observed, that it was a most disagreeable thing, no doubt, that such a concession should be made; and yet he did not know any possible case of cession where the consequences would have been so triflingly disagreeable as in the instance of Tobago. The inhabitants of which must be considered as those who frequently change their masters, and if their property be secured, they may not perhaps suffer much hardship by a change of allegiance. With respect to the rest of the cessions that had been made to France, he could not look upon them in that humiliating light which some noble Lords had considered them in. It was necessary to make concessions to France; she was determined at all events to have them, as some equivalent for those humiliating ones which she herself was obliged to make

at the conclusion of the last war. Noble Lords could not but recollect the submission France made to this country, which galled her pride, and which were rather feathers coveted by the French for the sake of pride than use: these were the islands of St. Pierre and Miquelon; and that we should depart from the old article for the demolition of Dunkirk. These were not objects of consequence to England, nor such as she ought to struggle for at the hazard of a war. Such only were the things which had been given up to the French both in the East Indies and in America, except indeed the island of Tobago; but their Lordships would reflect on our losses, and on our situation; and granting that there must be concessions, they would believe that the loss of Tobago was not so material.

Lord Sackville.

Lord *Sackville* spoke in the most pointed terms of reprobation of every article of the peace; and declared it to be in every instance the most unwise, impolitic, and ruinous of any treaty that this country had ever made. In regard to the abandonment of the Loyalists, it was a thing of so atrocious a kind, that if it had not been already painted in all its horrid colours, he should have attempted the ungracious task; but never should have been able to describe the cruelty in language as strong and expressive as were his feelings. The King's Ministers had weakly imagined that the recommendation of the Congress was a sufficient security for these unhappy men. For his own part, so far from believing that this would be sufficient, or any thing like sufficient for their protection, he was of a direct contrary opinion: and if they entertained any notions of this sort, he would put an end to their idle hopes at once, by reading from a paper in his pocket a resolution which the Assembly of Virginia had come to, so late as on the 17th of December last. The resolution was as follows:

"That the laws of the state confiscating property held under the laws of the former government, (which had been dissolved and made void) by those who have never been admitted into the present social compact, being founded on legal principles, were strongly dictated by that principle of common justice, demand that, if virtuous citizens, in defence of their natural and constitutional rights, risk their life, liberty, and property on their success, the vicious citizens who side with tyranny and oppression, or who cloak themselves under the mask of neutrality, should at least hazard their

property,

property, and not enjoy the benefits procured by the labours and dangers of those whose destructions they wished.

"That all demands or requests of the British Court, for the restitution of property confiscated by this state, being neither supported by law, equity, or policy, are wholly inadmissible; and that our Delegates in Congress be instructed to move Congress, that they may direct their deputies, who shall represent these States in the General Congress for adjusting a peace or truce, neither to agree to any such restitution, or submit that the laws made by any independent state of this union be subjected to the adjudication of any power or powers on earth."

His Lordship having read the paper, demanded what Ministers had to say now for this boasted recommendation, for which they had stipulated with Congress? Could they say, that the unhappy men who had fought and bled for this country, who had given up their all and (a pang the more grievous to minds of feeling) the all of their little families; could Ministers say that these men who had said and done, and suffered all that was in the power of human nature for our cause, ought not to have had a better security than the present, from scorn, insolence, and ruin? A peace founded on such a sacrifice as this, must be accursed in the sight of God and man! His Lordship added a few words of animadversion on other parts of the treaty, similar to those which had been already used by the Nobleman who had spoken in favour of the amendment, particularly with respect to the boundaries, and this he spoke to with great information and accuracy. All the forts, his Lordship said, were on the American side; the immense district of country which supplied us with masts was gone; the Indian nations were abandoned; and we were insulted with the navigation of the Mississippi, when all its benefits were taken away. He then concluded with giving his hearty approbation to the amendment; but before he had done, he took notice of an expression which had fallen from a noble Duke, [the Duke of Grafton] who had said, that it gave him pleasure to observe the delicacy with which the debate was conducted, in as much as the conduct of the late administration, to which so many of the misfortunes of this unhappy country were imputable, was not so much as once mentioned. Now he was free to own, he was one of those who counted it no delicacy to forbear adverting to that period; a period indeed, which the present Ministers would do well to decline speaking on. For though it was disastrous,

it was honest — it was honourable — it was every thing that could have commanded succefs, if one could look forward, and count upon certainty in fublunary tranfactions.

Lord Howe. Lord Vifcount *Howe* fpoke in fo low a voice, that there was fcarce a poffibility of collecting any thing which fell from him. After giving an account of the ftate of the navy in the detail, he fummed up its force, and faid, that by May next what with the number of veffels we had already, and thofe now in forwardnefs, this country might reckon upon ninety-nine line of battle fhips, tolerably fit for fervice; and, by the beft accounts, the force of the united Houfe of Bourbon might be about one hundred and twenty-five. He faid, that by the lateft accounts from Cadiz, the Spaniards and French had fixty fail of the line lying in that harbour, in prime condition, and in every refpect well equipped for the moft vigorous and active fervice. His Lordfhip's fpeech was of confiderable length, and from fuch parts of it as reached us, and what we could collect from the allufions of thofe fpeakers who followed, appeared to be intended as a defcription of the weak ftate of our naval power, and of courfe a juftification, in fome meafure, of the treaties before the Houfe. He recounted the tranfactions of the late campaign attributed a great deal of our fuccefs to chance; for, in a competition of ftrength with the enemy, we were greatly inferior. Many of the fhips were in a poor condition; that, for inftance, on board of which he hoifted his flag, the Victory, was very bad, and very unclean. He clofed with obferving, that if no other good attended the prefent pacification than the mere breathing time it gave us, we ought to count the interval a happy one, and inftead of idly flinging away our remaining ftrength in unnatural fquabbles among ourfelves, unite and endeavour to make the beft ufe of our time, in recruiting againft the poffibility of future hoftility. This, he trufted, their Lordfhips good fenfe would confider to be the advice of patriotifm, and not of party.

Lord Vifcount Keppel. Lord Vifcount *Keppel* faid, his laft accounts refpecting the ftate of the Spanifh navy at Cadiz, fpoke it to be no more than forty-two fail of line of battle fhips; and he computed our force, good, bad, and indifferent, to be one hundred and nine. He could not, indeed, enter into the minutiæ of the condition of our navy; he did not imagine it would be confiftent with prudence; but fo much would he fay, that he did not imagine the condition of our enemy's naval affairs was fo good as our own, or that they had any thing like fuch a profpect.

Lord

Lord Viscount *Howe* said, that the accounts on which he had founded his report of the state of the Spanish navy at Cadiz, were later than those his Lordship relied on; but he could not, he said, subscribe to the mode his Lordship took of estimating the naval strength of Great-Britain, under the description of good, bad, and indifferent; good and indifferent, a prudent man would think was stretching the account to the utmost verge of *shew*; indeed, he could hardly say, utility; but to include the *bad* in the statement, would be dangerous computation indeed.

Lord Howe.

Lord *King* said, he did not approve of the manner in which the war had been carried on; nor was he more reconciled to the peace—Vigour and spirit, which seemed to him essentially necessary to the dignity of martial or pacific transactions, were wanting in both cases. A noble Lord (Lord Sackville) had read the House a continuation of that lesson which America, from the very outset of the unfortunate quarrel with this country, had been constantly giving this country. The doctrine was as old as the creation, though we seemed to be ignorant of it, "He who is not for me in a state of civil war, is to all intents and purposes, against me." The langauge of war is harsh and dissonant. The introduction of a soft note into it, on any pretence whatever, only betrays an ignorance of the music. In plain terms, whenever there is a melancholy necessity for a war of the nature with that of America, tenderness in the biginning will, upon a review of events, be found cruelty in the end. For his own part, his Lordship declared, that if he had had the conducting of the war, he would have instantly, on the first accounts of the rebellious conduct of the Americans, sent off a powerful force to their country; and instead of burdening the peaceful and loyal subjects which these troops had left behind, he would have ordered them to subsist themselves upon the properties of the rebels, until by a salutary course of military physic, they had taken them down from their aerial stilts, and reduced them to the standard of common sense and allegiance. The deficiency of spirit which his Lordship thought so culpable in the late Ministry, appeared also in this, and therefore he could not, consistent with his former opinions give his approbation of a peace whose frame betrayed so much imbecilty.

Lord King.

The Earl of *Shelburne* then rose, and the House was all attention. The lateness of the hour, my Lords, said he, will not suffer me to take the liberty of trespassing so far on your patience, as my feelings would therein prompt me to on

Earl Shelburne.

the present occasion. I shall not address your passions — that candid province I will leave to those who have shewn such ability for its government to-night. As my conduct has been founded upon integrity—facts, and plain reasoning, will form its best support. — I shall necessarily wave the consideration of the critical moment at which I stepped into the administration of the affairs of this country—a moment when, if there be any credit due to the solemn, public declarations of men, who seemed then, and seem now, to have the wellfare of the state nearest to their hearts — every hope of renovated lustre was gone, and nothing but dreary despondency remained to the well-wishers of Great-Britain. I am now speaking within memory, and consequently within proof. It is not for me to boast of my motives for standing forward at a period so alarming. My circumstances are not so obscure as to render my conduct a matter of dubiety, and my own explanation of my feelings would, I flatter myself, fall far short of that credit which sympathy would give me in the minds of men, whose patriotism is not that of words; the ambition of advancing to the service of our country in an hour when even brave men shrink from the danger, is honourable, and I shall not be catechized for entertaining such an impulse. I make no merit of my hardihood, and when I speak of mine, I wish your Lordships to understand me as speaking of the generous enterprize of my noble and honourable colleagues in administration. It was our duty as good citizens, when the state was in danger, that all selfish apprehensions should be banished. I shall not, therefore, expatiate on my reasons for coming into office, but openly and candidly tell your Lordships how I have conducted myself in it. A peace was the declared wish of the nation at that time. How was that to be procured best for the advantage of the country? Certainly by gaining the most accurate knowledge of the relative condition of the powers at war. Here a field of knowledge was required to be beaten, to which no one man, vast and profound as it is possible to picture human capacity, would by any means be supposed equal. Then if one man was inadequate to the whole task, the next question naturally is, what set of men are best qualified as auxiliaries in it? What is the skill required? A knowledge of trade and commerce, with all its relations, and an intimate acquaintance with military affairs, and all its concomitants.—Were men of this description consulted previous to, and during the progress of the treaty now before your Lordships? I answer,

they

they were. And with this sanction administration need assume no false brow of bravery, in combating the glittering expressions of that hasty opposition that had been set up to the present terms. Let us examine them, my Lords, let us take the several assertions in their turn, and without wishing to intrude too much on your Lordships time, I shall be pardoned for giving a distinct answer to each head of objection. Ministry, in the first place, is blamed for drawing the boundary they have done between the territories of the United States and those of our Sovereign in Canada. I wish to examine every part of the treaties on the fair rule of the value of the district ceded—To examine it on the amount of the exports and imports, by which alone we could judge of its importance. The exports of this country to Canada then were only 140,000l. and the imports were no more than 50,000l. Suppose the entire fur trade sunk into the sea, where is the detriment to this country? Is 50,000l. a year imported in that article any object for Great-Britain to continue a war of which the people of England, by their representatives, have declared their abhorrence? Surely it is not. But much less must this appear in our sight, when I tell Parliament, and the whole kingdom, that for many years past, one year with another, the preservation of this annual import of 50,000l. has cost this country, on an average, 800,000l. I have the vouchers in my pocket, should your Lordships be inclined to examine the fact. But the trade is not given up, it is only divided, and divided for our benefit. I appeal to all men conversant with the nature of that trade, whether its best resources in Canada do not lie to the northward. What then is the result of this part of the treaty, so wisely, and with so much sincere love on the part of England clamoured against by noble Lords? Why this. You have generously given America, with whom every call under Heaven urges you to stand on the footing of brethren, a share in a trade, the monopoly of which you sordidly preserved to yourselves, at the loss of the enormous sum of seven hundred and fifty thousand pounds. Monopolies some way or other, are ever justly punished. They forbid rivalry, and rivalry is of the very essence of the well-being of trade. This seems to be the æra of Protestantism in trade. All Europe appear enlightened, and eager to throw off the vile shackles of oppressive ignorant monopoly; that unmanly and illiberal principle, which is at once ungenerous and deceitful. A few interested Canadian merchants might complain; for merchants would always love monopoly,

poly, without taking a moment's time to think whether it was for their interest or not. I avow that monopoly is always unwise; but if there is any nation under Heaven, who ought to be the first to reject monopoly, it is the English. Situated as we are between the old world and the new, and between the southern and northern Europe, all that we ought to covet upon earth was free trade, and fair equality. With more industry, with more enterprize, with more capital than any trading nation upon earth, it ought to be our constant cry, let every market be open, let us meet our rivals fairly, and we ask no more. It is a principle on which we have had the wisdom to act with respect to our brethren of Ireland; and, if conciliation be our view, why should we not reach it but also to America? Our generosity is not much, but little as it is, let us give it with a grace. Indeed, to speak properly, it is not generosity to them, but œconomy to ourselves; and in the boundaries which are established we have saved ourselves the immense sum of 800,000l. a-year, and shewed to the Americans our sincere love and fair intentions, in dividing the little bit of trade which Nature had laid at their doors; and telling them that we desired to live with them in communion of benefits, and in the sincerity of friendship. But the Indians were abandoned to their enemies. Noble Lords have taken great pains to shew the immense value of these Indians; it was not unnatural for noble Lords, who had made so lavish an use of these Indians, to complain of their loss; but those who abhorred their violence would think Ministry had done wisely. The Americans knew best how to tame their savage natures. The descendants of the good William Penn would manage them better than all the Mr. Stuarts with all the Jews harps, razors, trumpery, and jobs that we could contrive. But our treaties with them bound us to everlasting protection. This is one of those assertions which always sounds well, and is calculated to amuse the uninformed mind: but what is the meaning of *in perpetuo* in all treaties? That they shall endure as long as the parties are able to perform the conditions. This is the meaning of perpetual alliances; and in the present treaty with America, the Indian nations were not abandoned to their enemies; they were remitted to the care of neighbours, whose interest it was as much as ours to cultivate friendship with them, and who were certainly the best qualified for softening and humanizing their hearts. But I shall dismiss this subject, though it is blended with others, and pro-

ceed to the investigation of the rest of the objections to the treaties of pacification.

Why have you given America the freedom of fishing in all your creeks and harbours, and especially on the banks of Newfoundland, say the noble objectors to this article? Why? because, in the first place, they could, from their locality, have exercised a fishery in that quarter for the first season (for there are two) without our consent, and in spite of all our efforts to repel them. In February the first season commences, and that is entirely at their devotion; for our people have never, and can never take their stations there so soon. With regard to the other season, let us again revert to what I have already said respecting the fur trade; though we have not a monopoly, we have got such superior advantages in the article of drying, curing, and preparing our fish for market, from the exclusive command of the most contiguous shores, that a rivalry can only whet our industry to reap those benefits our preferable situation in this respect presents to us. But why have we not stipulated a reciprocity of fishing in the American harbours and creeks? I'll tell your Lordships:—because we have abundant employment in our own. Would not an American think it sordid in the extreme, nay, consider it bordering on madness, to covet the privilege of battening our cattle on some of their steril wilds, when we had our own fertile Savannahs to have recourse to. Such would be the opinion entertained of Ministry, if it had childishly and avariciously made a stipulation of the nature the objectors think they ought to have. The broad and liberal policy on which the present treaty is formed, is in my opinion much more wise and beneficial than would have been the narrow and wretched plan of bargaining for every little particle of advantage which we might have procured, perhaps, by stickling in the negotiation. As to the masts, a noble Lord said, we were to have in such abundance at Penobscot, I will oppose a fact to his bare assertion. I have in my pocket a certificate from one of the ablest surveyors in our service, Captain Twiss, that there is not a tree there capable of being made a mast. But there remains somewhat in these provisional articles still to be considered, which I have never reflected on without feelings as pungent as any which the warmest admirers of the virtues of the Loyalists can possibly have experienced. I mean the unhappy necessity of our affairs, which induced the extremity of submitting the fate of the property of these brave and worthy men to the discretion

 of

of, their enemies. I have but one answer to give the House in this particular, it is the answer I gave my own bleeding heart. A part must be wounded, that the whole of the empire may not perish. If better terms could be had, think you, my Lords, that I would not have embraced them? You all know my creed. You all know my steadiness. If it were possible to put aside the bitter cup the adversities of this country presented to me, you know I would have done it; but you called for peace. To make it in the circumstances, which your Lordships all know I stood in, was most arduous. In this point, nothing could be more grievous to me. Neither in public nor in private life is it my character to desert my friends; I had but the alternative, either to accept the terms, said Congress, of our recommendation to the states, in favour of the Colonists, or continue the war. It is in our power to do no more than recommend. Is there any man who hears me, who will clap his hand on his heart, and step forward and say, I ought to have broken off the treaty? If there be, I am sure he neither knows the state of the country, nor yet has he paid any attention to the wishes of it. But still I do not despond with respect to the Loyalists; I rely upon the wisdom, the honour, and the temper of the Congress. Their recommendation was all that in the nature of things we could procure. They were cautious in wording their treaty, lest they should possibly give offence to the new states, whose constitutions had not advanced to those habits of appearance and strength that banishes all suspicions; peremptory language is not the language of a new state. They must soften their applications. In all their measures, for money, for men, they have used the word recommendation to the Provincial Assemblies; and it has always, or at least generally been paid respect to. And, believe me, they do the Loyalists the offices not of friends, who surmise doubts on this occasion. But say the worst; and that after all, this estimable set of men are not received and cherished in the bosom of their own country. Is England so lost to gratitude, and all the feelings of humanity, as not to afford them an asylum? Who can be so base as to think she will refuse it to them? Surely it cannot be that noble-minded man, who would plunge his country again knee-deep in blood, and saddle it with an expence of twenty millions for the purpose of restoring them. Without one drop of blood spilt, and without one-fifth of the expence of one year's campaign, happiness and ease can be given the Loyalists in as ample a manner as these blessings

blessings were ever in their enjoyment; therefore let the outcry cease on this head. But which of the two stiles of language is the more likely to assist the Loyalists? The stile of the address which declares the confidence of Parliament in the good intentions of the Congress, or the stile of the noble Lords who declare that recommendation is nothing. It surely requires, my Lords, no great depth of penetration to distinguish between these things. A noble Viscount asks why Mr. Oswald was appointed as negotiator against such odds? Because he was fitted for the great work in question, by the qualities both of his head and his heart. He was inflexibly upright — had long and liberally been engaged in commerce, and was well versed in the local knowledge of America; no man therefore would deny Mr. Oswald's fitness for his station. At the same time his Lordship was free to say, there might be a few men more fit, but they had not come to his cognizance. The noble Viscount who had last spoke upon the subject [Lord Sackville] might have been a better negotiator — might have distinguished himself as he had always done, both in the cabinet and in the field. Or, perhaps, the other noble Viscount in the green ribband [Lord Stormont] might have been more remarkable; and if we could have conquered any aversion in his Lordship to venture again on the same theatre, where he had not been received with very general satisfaction before, he, no doubt, would have concluded a peace with the same fortunate distinction with which he commenced the war.

We will now, if your Lordships please, advert to the Preliminary Articles with France and Spain; and first to the objections respecting the cession to France on the coast of Newfoundland. This, to be sure, is not to be tried by the rule of imports and exports. But what is it? Seven degrees of latitude. These are sounding words; but they are no more. By this part of the treaty future quarrels are guarded against. The concurrent fishery formerly exercised was a source of endless strife; the French are now confined to a certain spot; it is nothing compared to the extent we possess, and it is besides situate in the least productive part of that coast. But I would not have your Lordships pay greater attention to my bare assertion, that I trust you will to the assertions of those who take upon themselves to pronounce this part of the treaty wrong. I have here ready for your inspection the opinions of the ablest men on that subject. I applied to the person best qualified to point them out to me. The noble Lord near me,

[Lord

[Lord Keppel] then at the head of the admiralty, referred me to three officers in his Majesty's service, whose judgment and integrity he could rely on, and your Lordships, on the bare naming of them, will rely on them too. Admiral Edwards' testimony must have its weight; the testimony of Captain Levison Gower, whose services the nation are to enjoy in peace as well as war; and that of Lieutenant Lane, who took an accurate survey of the whole coast, and who was well qualified for the task, as he served under and possessed the confidence of the famous circum-navigator, Captain Cooke. These officers all declare, that the best fishing was to the southward, which was entirely in the possession of the English; so that we must doubt the national spirit, and the national industry of this country before we can pronounce, said his Lordship, this so much talked of exclusive seven league fishery an injury to Great Britain.

As to the cession of St. Pierre and Miquelon, where is the proof that these places can be fortified so as to annoy us? I call on the noble objectors for their proofs; I call in vain, I know I do. I have here in my hand that which will satisfy your Lordships how idle all surmises are on that head. Here are certificates from the most skilful and experienced engineers, that neither St. Pierre nor Miquelon would admit the construction of a fortress, which could stand the attack of the smallest of your frigates.

Permit me, my Lords, to impress upon your minds, that the foundation of all the parts of the respective treaties before you was, as I stated in the beginning, not speculation or idle conjecture, but practice and solid experience. My language does not mock your understanding with assertions; it feeds it with fact. With this constantly in your eye, I court for myself and my colleagues, your Lordships decision on our conduct. Before I quit this quarter of the world, give me leave to advert to all the particulars which have been objected to.

With respect to the cession of the two Floridas, I must refer again to the exports and imports. The imports are not more than 100,000l. and the exports hardly exceeded 120,000l. To be sure, I would not willingly take so much from the commerce of the nation; but amidst the millions of our trade, is this an object worth contending for at the hazard of continuing the war? The navigation of the Mississippi has been reprobated as an useless acquisition. Could men seriously assert this? Was a navigation of so many hundred miles

miles up a country, where there is a call for our manufactures, an useless thing? Surely not.

And we will now, if your Lordships please, take a view of our affairs in the West Indies. All the islands there are restored to us, and in return, we cede St. Lucia and Tobago. St. Lucia, held in so much estimation now, may be tried more fairly by the value set upon it at the last peace. As I said before, on all hands it is allowed that that was not a humiliating, but a high and mighty peace for this country. Why, therefore, if this island was, as the objectors pretend, the key-stone that supported and connected the arch of all our power in the leeward islands — why, I say, was not this island then retained? But I can produce the opinions of your most experienced seamen on this head, my Lords, which vindicate that Ministry as well as the present. And I do therefore claim the indulgence (until my position is controverted by superior evidence) to be believed, when I assert, that St. Lucia is not of that vast consequence some noble Lords would possess this House with the opinion of, in order to depreciate the merits of the treaty. With respect to Tobago, it is said, the cession of that island will ruin our cotton manufacture. Pray let me ask noble Lords, was our cotton manufacture a poor one before we possessed that island? As no noble Lord rises to assert the affirmative, I will be allowed to state it in the negative. It was not poor then. Why should it be poor now? We have been long in possession of that great branch of trade, consequently we can afford to give a greater price for cotton than our neighbours. Cotton, therefore, be it in the hands of friend or foe, will always, your Lordships may be assured, find its way to our door, in preference to that of those who cannot meet it with such a purse. But I know a few over-grown monopolizers of that article, or some selfish proprietors, would see the nation steeped in blood, sooner than they would forfeit, by the peace, one farthing of that emolument which they used to make when Tobago was in our hands. Let me comfort these worthy men, by telling them, that the islands restored to us, contain a vast number of acres, uncultivated, which may be applied to the growth of this so much coveted commodity. But let it be remembered, that we have kept Dominique, an island as valuable to this country, if not more so, than St. Lucia, if considered as a place of observation and strength. I have it on the authority of a noble Admiral, whose conquests in the West Indies have been distinguished

guished by laurels that will bloom for ever, that Dominique is capable of being rendered all that ever St. Lucia could pretend to be, and that it contains also superior advantages in respect of climate and situation.

We will now, my Lords, look to Europe. I am asked, why overlook all the treaties respecting Dunkirk? Why, let me ask the question in return, why were not these treaties ever enforced during all the administrations which have passed away since the demolition of that harbour was first stipulated? This negligence is *prima facie* evidence of the little account in which the fulfilling of that treaty has hitherto been held; for were it otherwise, we had often since the power to enforce it. And I have heard that able seaman, the late Lord Hawke, declare, that all the art and cost that France could bestow on the baton of Dunkirk, would not render it in any degree formidable or noxious to Great Britain. But, as was well observed by a noble friend near me, [Lord Grantham] France wished to have the feathers she formerly strutted with restored to her; and, surely, no sober man would continue the war to thwart a fancy so little detrimental to us. However, if I am mistaken; if Lord Hawke be mistaken; if former Ministers be mistaken, let the proof be produced. Till then, I trust your Lordships, if you do not now approve of the conduct of my administration, in this particular, you will at least suspend your judgments.

The cession of Minorca has not been objected to, and therefore I do not enter into the defence of that article; but I must take notice in this place, that it is not perfectly fair in stating the particulars of these treaties, to overlook all that we have gained. The salvation of Gibraltar, under all the circumstances of the present war, is a point of glory which would not easily be snatched from Ministers. No man had ever asserted that Gibraltar might not be given up upon certain terms. Gibraltar was saved!

We will now, my Lords, proceed to the examination of the objections against the part of the French treaty that respects our affairs on the coast of Africa. Senegal is given up, and the gum trade is therefore lost. Is that inference just? Is not the faith of France engaged for our having a fair share of that trade? More than a share we never were in possession of. But what tie is this same faith? It will be asked, What tie? Why, as strong a tie as all men of reflection must know every parchment tie is between rival nations

Only

Only to be observed while interest or convenience obliges. The ties of nations, no man can be so wretchedly versed in history, or so miserably deficient in observation, as to place upon the parallel with those which are binding upon individuals; but on enquiry your Lordships will find, that Senegal, which we have given up, is not so favourably situated for trade as Senegambia, which we have kept. The former has a bar dangerous to shipping; an inconvenience which the other is free from. In a word, by this article of the treaty, instead of losing any thing, we secure (as much as we ever had secured) a share in the gum trade, and we are not under the necessity we formerly were of making that coast a grave for our fellow-subjects, thousands of whom were annually devoted to destruction from the unhealthiness of that climate, by means of our jealousy, which sent them there to watch an article of trade, which in vain we endeavoured to monopolize.

I must now, my Lords, call your attention to what concerns the part of the treaty respecting the East Indies. Here Ministry are asked why they restored Pondicherry to the French? and why they gave permission to them to run a ditch round Chandernagore? Two cogent reasons can be given for this conduct: the first is the unwillingness, and the inability of this country to prosecute the war; and the other is the distracted state of the British dominions in that part of the world. Your Lordships must soon be fully acquainted with the whole of the melancholy truth I only glance at on this occasion. My Lords, by the last accounts from thence, the troops were declared to be four months unpaid, and of course upon the eve of a mutiny. Nay, in such miserable situation were the affairs of the East-India Company in that quarter, that they were obliged to mortgage their commodities to wealthy individuals, who would not (so reduced is the credit of the Company in that quarter of the globe) take their solemn assurance for the faithful disposal of the stock at the East-India sales here, but employed agents to see the business more securely transacted. Do your Lordships know that there are one million four hundred thousand pounds of these draughts yet unpaid? that there are two hundred and forty thousand pounds more coming home? And that your Lordships may form some estimate of the extravagance of the usury at which the Company were obliged to borrow from these people, I must inform your Lordships, some of the very agents employed by those usurers

have twenty thousand pounds a-year commission for their trouble. Is it necessary, my Lords, to say a word more for the necessity of conceding these matters to the French, who were at the very moment forming alliances with Hyder Aly, our most formidable and inveterate enemy, to drive us entirely out of the country? Our old foe, Monsieur de Bussy, in the decline of life, almost at the age of eighty, leaving France purposely to form alliances. And what have we to withstand their force when formed? Will unpaid troops fight, think you? But say that it was possible to expect such disinterested conduct from a common soldiery, will, or rather can famished troops fight? Our account about the same time tells us, that our forces sent out against Hyder Aly were in daily dread of being starved to death. What stand could an army of infantry (for we have no horse), make against that potent prince, and his numerous, well-appointed, formidable cavalry? None. They would be as chaff before the wind. Do your Lordships know too, that all hopes of peace with the Mahrattas are frustrated; that we have been deceived by idle stories of applications being made to men of power in the Mahratta States, who promised to exert their influence, but it was found, that they had no influence upon earth? While, therefore, the French Court were ignorant of the sad condition of our affairs in that quarter, while they were as yet unacquainted with the result of Monsieur de Bussy's negotiation with the Indian Powers, was it not prudent in the British Ministry to concede, as they did at that moment, when there was a probability that they had conceded what was no longer in their power to keep?

I have now, said his Lordship, gone, as well as my memory serves me, through the detail of all the objections which have been made to the treaties; and, I trust, your Lordships see, from the facts to which I have all along referred you, the necessity and the policy of our conduct in this particular. Let me, before I conclude, call to your Lordships minds the general state of this country, at the period in which the pacific negotiations were set on foot. Were we not at the extremity of distress? Did not the boldest of us cry out for peace? Was not the object of the war done? Was not the independence of America solemnly recognized by Parliament? Could that independence be afterwards made a stipulation for the restoration of tranquillity? On an entire (not a partial) view of our affairs at that time, is there any honest, sensible man in the kingdom that

will not say the powerful confederacy with whom we had then to contend had the most decided superiority over us? Had we scarce one taxable article that was not already taxed to the utmost extent? Were we not one hundred and ninety-seven millions in debt? and had we not the enormous sum of twenty five millions unfunded? Our navy bills bearing an enormous discount; our public credit beginning to totter; our resources confessedly at an end; our commerce day by day becoming worse; our army reduced, and in want of thirty thousand men to make up its establishments; our navy, which has been made so much the boast of some men, in such a condition, that the noble Viscount, now at the head of the profession, in giving a description of it, strove to conceal its weakness by speaking low, as if he wished to keep it from going abroad into the world. But in such a day as this it must be told — your Lordships must be told what were the difficulties which the King's Ministers had to encounter with in the course of the last campaign. Your Lordships must be told how many sleepless nights I have spent — how many weary hours of watching and distress. What have been my anxieties for New York! What have I suffered from the apprehension of an attack on that garrison, which, if attacked, must have fallen! What have I suffered from the apprehension of an attack on Nova Scotia or Newfoundland! The folly, or the want of enterprize of our enemies, alone protected those places; for, had they gone there instead of Hudson's Bay, they must have fallen. What have I suffered for the West Indies, where, with all our superiority of navy, we were not able to undertake one active or offensive measure for want of troops; and where, if an attack had been made where it was meditated, we were liable to lose our most valuable possessions! How many sleepless nights have I not suffered for our possessions in the East Indies, where our distresses were undescribable! How many sleepless nights did I not suffer on account of our campaign in Europe, where, with all our boasted navy, we had only one fleet with which to accomplish various objects! That navy, he was fair to own, was well conducted. Its detachment to the North Seas, to intimidate the Dutch, was a happy and a seasonable stroke; but the salvation of the Baltic fleet was not all to be ascribed to ability — accident contributed to that event — accident contributed to more than one article of our naval triumphs. How many of our ships were unclean? The noble Viscount has told us the case of

the fleet with which he was sent to the relief of Gibraltar. He could hardly venture to swim home in the Victory. How many of our ships were in fact undermanned? Did the House know this? Did they know that our naval stores were exhausted—that our cordage was rotten—that our magazines were in a very low condition—and that we had no prospect of our navy being much better in the next campaign than it was in the present. [The noble Earl, during all these queries, directed his eyes to Lord Keppel, until the noble Admiral called him to order.] Do the House know all this? The noble Lord is offended at my directing myself to him; I have no idea of imputing blame to the noble Viscount. His abilities are unquestioned; but when the greatness of the navy is made not only a boast, but an argument, it is fair to examine the fact. Are not these things so? and are not these things to be considered, weighed, and taken into the account, before Ministers are condemned for giving peace to the country? Let the man who will answer me these questions fairly, tell me how, in such circumstances, he would make a peace, before he lets his tongue loose against those treaties, the ratification of which has caused (for myself at least I will speak, and I believe I may answer for my colleagues) so many anxious days and sleepless nights. It is easy for any bungler to pull down the fairest fabric, but is that a reason, my Lords, he should censure the skill of the architect who reared it. But I fear I trespass, my Lords, on your patience too long. The subject was near my heart, and you will pardon me, if I have been earnest in laying before your Lordships our embarrassments, our difficulties, our views, and our reasons for what we have done. I submit them to you with confidence, and rely on the nobleness of your natures, that in judging of men who have hazarded so much for their country, you will not be guided by prejudice, nor influenced by party.

Lord Viscount Keppel.

Lord Viscount *Keppel* made a short reply to the noble Lord, in the course of which he said, that he had not been invited to be present when the opinions of Admiral Edwards, and the other officers, had been asked on the Newfoundland fishery, otherwise he might have given his opinion of what had been said. In respect to what the noble Lord had thrown out with regard to the state of the navy, and the embarrassments and accidents of the last campaign, he was not solicitous of the noble Earl's praise, and he was not much hurt at his insinuation—he would abide by what he

had

had said—the navy of England was not only in a flourishing, but a vigorous state; and we had the happiest prospects before us for the next campaign.

Duke of Richmond

The Duke of *Richmond* said the peace was no peace of his; he could find a hundred faults with it; and as to Gibraltar, his Grace did not well understand the noble Lord when he threw out, that no one had ever said, that it might not be given up in certain cases. His Grace thought, that their Lordships ought necessarily to have the treaty with the Dutch laid before them, before they came to any determination on the Preliminary Articles; and he begged to know from the noble Earl, whether the rumour was true, that the important bay and settlement of Trincomale was to be given up.

Earl Shelburne.

The Earl of *Shelburne* disclaimed any disrespect toward Lord Keppel, and with respect to Gibraltar, he again insisted upon it, that it had been said, that it might be given up in such and such instances. His Lordship said it was no secret, what the treaty would be with Holland. The Cape of Good Hope was to be ceded to the Dutch, and Trincomale was also to be given up.

Lord Loughborough

Lord *Loughborough* said, that he had waited to hear the opinions of those Lords, who, from their situation, must have the fullest information of all circumstances, under which the articles were concluded. Four Lords, in high offices, who had the best means of knowing whether the terms were adequate to the relative situation of the country, had delivered their opinions in the debate. Two of them, that the terms were unfit for the country to accept, and that no necessity urged us to admit them. One of these Lords had given the strongest testimony of his opinion, by resigning an employment that he quitted with as much honour as he had held it, because he would not advise his Royal master to accept peace on such terms. To ascertain the relative abilities of the powers at war, to continue the contest, might often be a very difficult matter in the present case, he required but one point to be admitted—That the condition of the country was not so desperate as to oblige us to except of any conditions our enemies chose to offer; in short, that this was a treaty, not a capitulation, the articles of which were under deliberation. Neither of the Lords who had advised the peace, had argued in favour of it upon that ground, but had considered the preliminaries as articles

ticles of a treaty; and yet they had both omitted to point out upon what line that treaty was conducted.

When two powers at war have opened to each other their desire of making peace, it is obvious that some point must be fixed as the basis of the negotiation, either that of the actual possession of the time of the treaty, or of the state of their possessions at the breaking out of the war, or at some other given period. The first, the *uti possidetis*, notwithstanding all our losses was not so favourable to our enemies, that they could have accepted it as a noble Viscount (Lord Stormont) had clearly shewn. If there was any line drawn for this treaty, it could only be what the Ministers had stated, that France insisted as a basis of the negotiation, that she should be secured against those insults to which she had submitted in former treaties. How then was this idea carried into execution by the present articles? In Europe, France was to be relieved not only from the restraint of a Commissary established at Dunkirk, (which might perhaps be a circumstance of unnecessary mortification) but from the engagement of the treaty of Utrecht, purchased by this country as an immense expence, not to fortify or restore a port made to control England in the very Channel, and attack her in the mouth of the Thames. France to be out of insult there, required to be put in a condition at any time to insult us in the centre of our trade. The noble Lord at the head of the Treasury had, indeed, treated this as a very immaterial article, and affected to consider the anxiety of former Ministers on the subject of Dunkirk, as an idle apprehension, or an artifice to flatter and deceive the people; it would require, however, a greater experienee of that noble Lord's abilities, to be convinced that he knew better the true interests of the country, than all the successive administrations for above a century, and that the wisest and the firmest men of their age, were either possessed with a weak and foolish apprehension, when they thought the restoration of the port of Dunkirk dangerous to the safety of England, or were mean enough to attach a false value to that object merely to impose upon a people who must have been very willing to be so long deceived.

The next point in which France was to be put beyond insult, was, in regard to the fishery; not only the restraint of fortifying St. Pierre and Miquelon is removed, but the extent of the fishery is enlarged, and the articles are drawn in such a manner as to leave France a larger claim than the

words

words directly avow. A noble Viscount (Lord Stormont) had well explained the pretensions of the French to an exclusive right of fishery within the limits described by the treaty of Utrecht. That claim had been urged in Mr. Silhouette's Memorial, presented before the last war, but had been very fully refuted on the part of England, and was abandoned at the treaty of Paris. In the present articles, it is revived: what else can be meant by the recital of the third article of quarrels that had subsisted, the only quarrel that ever subsisted was, whether the right of France was exclusive or concurrent. In the fourth article, the French are to enjoy this right, not as they have enjoyed, but as they *have a right to enjoy it*, by the treaty of Utrecht. The noble Lord who spoke last, had taken no notice of this point, and had only asserted, that the new limits were more favourable to England than to France; in extent, they certainly were less favourable, the proposal to vary the limits evidently came on the part of France. It was not easy to suppose that she had chosen for herself the worst stations; but admitting all this, why did the noble Lord avoid the plain question, whether he understood the French fishery to be exclusive or concurrent. If exclusive, it was a new and an important acquisition, disguised too from the public eye by the manner of granting it. If concurrent, the words of the treaty were so loose and ambiguous, that they left open an immediate cause of quarrel between the two countries.

The fishery is diminished, but the fur trade is entirely renounced, for the country that produces that article is given away. The noble Lord who spoke last, defends this by arguments which concludes for an entire cession of Canada, and points out that this must be intended, for what else is the meaning of stating the account of the profit and loss of that province. The charge, however, was in a great degree to be placed to the account of the war, and the profit would have been very great upon a peace, had we not given away the most valuable part of the province. The noble Lord attempts also to justify this cession by a long declamation against monopolies and an encomium upon open and free trade. How the censure of monopolies has the least application to this question, it was impossible to conceive, we had a monopoly of the fur in the same manner that every country has a monopoly of its own produce. Iron, lead, coal, wine, wood, the natural produce of any countries, are sold

by

by those who possess them, as owners, not as monopolists. The fur trade was ours because we held the country that supplied it. How is the trade laid open by transferring that country to the Americans. No more than the coal trade would be opened by yielding up our mines to another power. The merchants too are accused of being anxious for their own interests and not understanding the benefit of sharing, or rather transferring their profits to others, and a new æra of trade on new principles is announced. We know to what height the pursuits of old and plain maxims of trade has raised this country. But it is not easy to comprehend the benefits that will result from this new system so magnificently described. In the East Indies, according to these articles, it is difficult to conceive when or how the war is to cease.

There too the principle of securing France against the insults imposed by former treaties, is carried to a strange extent. France having lost every settlement on the continent, Asia is not only fully restored, but to the fortifications of Pondicherry, a large territory is to be added, a free and unrestrained, and what is worse, an undefined trade is granted, and liberty given in effect to fortify Chandernagore. To fortify, for after all that has passed on that subject, it would be folly to imagine, that France means any thing less than a fortification, by the liberty given to surround that place with a ditch. The French had made that ditch during the last peace, the officer sent to inspect it, General Campbell, now Governor of Jamaica, whose abilities and honour no man can doubt, demonstrated, that it was in effect, a fortification, the earth was thrown up on the side of the place, banked and formed with angles, which could not be the work of a mere ditch. On his report, the servants of the India Company, instead of presenting a complaint, used their power, and destroyed the work. The liberty given to restore the ditch, after this recent contest upon it, must mean to restore it to its former state, and the answer made to this objection, that the India Company will not be bound to allow more than a mere ditch, only shews, that this article furnishes an immediate occasion of quarrel; but another part of the article is connected with this; the free and independent trade, such as the French East India Company enjoyed, without specifying at what period, not only raises a contest about duties, but taken in its full extent, makes Chandernagore a place of arms. The French East India

India Company, prior to our acquiſitions in Bengal, were encouraged to carry arms into that country; during the peace, the veſſels have been viſited, and no arms permitted to be brought in. If that reſtraint is given up, Chandernagore will ſoon be a moſt formidable poſt in the centre of our government; if it is inſiſted on, will the French ſubmit to it? The 16th article, in terms, continues the war, for it introduces the French into every negotiation with the country powers, it gives them allies in every part of India, as ſoon as the advices can reach that country over land; it invites them, at once, into a rivalſhip with the Engliſh, for the protection of the country powers, who by entering into meaſures with them, have nothing to apprehend, and every thing to gain, and it makes hoſtilities ceaſe four month after a notification, which France may give, if it is expedient, and may withhold, if it is not.

Could France, it is ſaid, omit ſtipulating for the Princes ſhe may have engaged in the war, it would have been unworthy the honour of a great nation. Would to God, that reflection had had more weight in another part of this treaty, where the honour of this nation was moſt deeply pledged. France could not have omitted her allies, but ſhe might have named them; it regards, it is ſaid, Hyder Aly, with whom orders were ſent to make a treaty. Why not then refer to the orders, name Hyder Aly, name any other Prince of Hindoſtan, deſcribe the extent of the engagement, but not leave an opportunity to convert every propoſal to any power into an engagement of alliance. The addition of territory to Pondicherry and Karical is treated as a trifling matter. It was not thought ſo in the negotiations for the treaty of Paris. Great art was employed, and preſſing ſolicitations to carry that point; but the Miniſters then were well informed of the value Mr. du Pleix put upon that territory, and that he held it to be a firm foundation for the power of France, on the coaſt of Coromandel, and for an oppoſition to the Engliſh influence.

The noble Lord, at the head of the Treaſury, ſays, that the engagement *to procure* that territory, is ſimilar to the engagement in the proviſional articles of the Congreſs *to recommend* the Loyaliſts. Happy would it have been for thoſe unfortunate and deſerving ſubjects, if the ſame ſpirit that dictated this article, had, on our part, been exerted in their favour. But ſhall we tell France, that *to procure* is only *to recommend*, and at the ſame time expect,

that the peace will be of long duration. An hope of retaining Trincomale, would have been some consolation for the concessions we have made, and some security to us, in case of the war continuing; but that too is gone by the noble Lord's declaration; and though he tells us, the French are to evacuate the Cape, he has not said, at what time that evacuation is to take place. If it is not to precede the cession we make, France may from thence recruit her forces, and establish a post equally pernicious to us, and beneficial to her. That noble Lord has also supported these articles, by the authority of the East India Directors, who he says, were consulted and approved; at the same time, that he has drawn such a picture of their mismanagement and ignorance of the interests of the Company, as does not leave much authority to such an approbation. If any authority could, after this, remain to their opinion, it would be fit to know how much was communicated and explained to them. There are Directors, who say all the articles were not shewn, and that to those that were, they stated objections, which they were told would be removed, but which still remain.

A gloomy detail of advices from India, stating the want of money and supplies, the bad condition of the government there, and the little hopes of a peace, with the Mahrattas, has also been stated as an apology for the terms given to France; but the noble Lord must know, that he has only quoted the articles of charge sent home by the opponents of of Mr. Hastings, and that the same packet brings counter advices from that gentleman, which state the very reverse, which is the true account. It is not easy to decide, but it seems strange to adopt the bad state of our affairs in India, as an apology for setting up the power of France in that country. The arguments would have been more convincing, if it could have been said, that our revenues were so ample, our alliances so powerful, and our force so great, and so well conducted, that there was no occasion to fear the French interest, and we might safely admit them to their former freedom of trade. At one time, it is urged, that the concessions are inconsiderable, and cannot hurt our interests; at another, our weakness, it is said, compelled us to admit them.

When we pass from India to the coast of Africa, there France to be out of the insult, has brought our trade entirely under her power, by insisting on both Senegal and Goree. If the Ministers had referred to the negotiations for the last peace, they would have seen that France explicitly stated that

that without the one of these places the trade in gum cannot subsist. Neither of these establishments have any intrinsic value; they are an expence to the country possessed of them; but one is necessary to secure a participation of the trade, and on this principle, stated by France, and admitted by us, they were then divided. Now they are united, our trade is held at the pleasure of France. The noble Lord considers the trade as a small object, by stating the value of the gum imported; but the want of it destroys the two great branches of manufacture, that of the printed linens, and that of silks and gauzes, by which many thousands are supported. If a war should break out, we must be deprived of it entirely, and in peace, we shall buy it at the French price.

The conclusion of all the terms with France is, that at a time when we had the command of the West-Indies, and the sole possession of the East, when we shared the African coast, and had excluded her from the fishery, when the pressure of the American war was relieved, and we had nothing to fear in Europe; we have restored her to all her power, and given a controul and check upon us in every quarter of the globe.

The noble Lord, now at the head of the Admiralty, stated, as the great benefit of this peace, that it gave time to prepare for war. This seemed to be the chief advantage he had discovered in it; even in this, if the treaty fails, for with such causes of quarrel as may arise concerning the fishery, and in the East-Indies, who will undertake to say, when or how long we shall enjoy a respite from war.

Upon the treaty with Spain, what pretence could be set up for the cession of East Florida? Was the condition of that power so splendid, that it was necessary to bribe her to grant us peace by an addition of that important settlement to all the acquisitions she is allowed to retain.

Of all the parts of this treaty the provisional articles are the most unworthy of a nation once respectable; that it might be necessary to admit the independence of America, he allowed, for without that necessity admitted, those who made these articles could have no defence, their opinion having been often declared against it. America then being independent in all her thirteen states, and considered merely as a power at war with Great-Britain, what was the known situation of each at the time of the treaty? Britain possessed the strongest posts on the coast of America, all the back country, and the River St. Laurence; the fishery was

entirely her's; a great part in the country uneaſy at the continuance of the war, and diſſatisfied with a new government; many zealouſly attached to our intereſts.

All the poſts are given up; an immenſe extent of territory, the fur trade, the fiſhery, and, what is more than all the loſſes of all the treaties, the faith and honour of the nation pledged to the thouſands who have been diverted and betrayed. This treaty ſtands unparalleled in the hiſtory of mankind. It ſets out with a propoſition that never yet found a place in any treaty, and that ſubverts the very purpoſe and end of every treaty. The preamble ſtates in plain terms that advantage and convenience are the only foundation of peace between ſtates; the principles of juſtice, the laws of nations, the faith of mutual compacts are then of no regard amongſt ſtates, when intereſt and convenience are in view. The ſequel of this introduction profeſſes to arrange matters upon a principle of reciprocal, not partial advantage; and when we proceed in the articles, this reciprocity is to take all to America, and neither give nor ſecure any thing to Britain. Under the colour of aſcertaining a boundary, a country larger than Europe, ſettled in many parts of it, full of nations who are under the alliance and protection of the crown, is transferred and done away without even the merit or the grace of making ſo immenſe a ceſſion. The coaſts likewiſe are extended to twice their ancient limits, and with ſo little attention, that part of the land and harbours of Nova Scotia is within the line of the American coaſt. The fiſhery on the ſhores retained by Britain, is in the next article not ceded, but recognized as a right inherent in the Americans, which though no longer Britiſh ſubjects, they are to continue to enjoy unmoleſted, no right on the other hand reſerved to Britiſh ſubjects to approach their ſhores, for the purpoſe of fiſhing in this reciprocal treaty.

Even in the article for the ceſſation of hoſtilities which in every treaty that ever yet was made is reciprocal, the period on our part commences immediately, on the part of the Americans, confiſcation, proſcription, impriſonment, and captures at ſea, are not determined till after the ratification in America and the definitive treaty.

The articles reſpecting debts and private rights are conceived in terms totally different from other treaties; why the plain and uſual language was dropped, and the articles penned in terms totally unintelligible, it is difficult to conceive,

ceive, unless it was, that the engagement on one side should have no effect, which will not seem an unreasonable suspicion to any one who considers the frame of the fifth article.

That article has excited a general and just indignation. For what purpose could it have been inserted? Those whom it pretends to favour receive no benefit from it, for what is the purport of a recommendation? but to those the most entitled to our regard, the brave and unhappy men who have not only given up their property, but exposed their lives in our cause, the distinction admitted to their prejudice is cruel and injurious indeed.

What is the defence set up for this article? That the Commissioners or even Congress had no power to undertake farther, how true let the other articles testify; but allow it true, why treat without fuller powers granted? Admit the necessity of treating with persons not fully empowered. Why not then omit an article so useless and yet so reproachful. But were there no means left to secure a better article for the Loyalists. Can it be forgot, that besides all other advantages yielded by the treaty our troops maintain the possession of York Island, Staten Island, Long Island, the inhabitants are armed with us in defence of their own estates, those estates by recent acts have been confiscated; that when we evacuate these places, we shall deliver up the houses, goods, even the persons of our friends. If this were the capitulation of a besieged town, it would be scandalous to surrender upon such terms. At the lowest ebb of distress, reduced, and almost undone, the necessity can hardly be conceived that should oblige a state to subscribe to an article evidently inserted for no other purpose than to blast for ever the hitherto untainted honour of the nation. Francis the First vanquished and captive, wrote to his subjects, every thing is lost *hormis l'honneur*, and the spirit of that sentiment preserved his kingdom, and restored his fortune. If we had implored in this instance the aid of France and Spain, the generosity of two great and respectable states, would have interposed in favour of the men we have deserted. The fidelity of the Loyalists to their King and country, however obnoxious to the hostile pursuit of America, while the war lasted could never have been felt by any honest mind as a crime that excluded them from any conditions of peace.

In every treaty that has terminated a civil war, the articles of mutual forgiveness and restoration have ever been the easiest

easiest to settle. The Catalonians, at the peace of Utrecht, though rebels to King Philip, were admitted to all the rights of the most favoured subjects, the Castillians; and even an abridgement of some provincial privileges which they claimed, was imputed as an unjust desertion of them by the powers which had availed themselves of their insurrection. No war was ever more marked by personal animosity and party hatred than that carried on in Ireland after the abdication of James the Second, yet in the articles of Limerick, mere articles for the surrender of a town, there was no difficulty of admitting the most favourable terms for the Catholics engaged against King William. In ancient or in modern history there cannot be found an instance of so shameful a desertion of men who had sacrificed all to their duty, and to their reliance upon our faith. There is even an horrible refinement in the cruelty of the articles; they are told that one year is allowed them to solicit from the lenity of their persecutors that mercy, which their friends neglected to secure; to beg their bread of those by whom they have been stripped of their all; to kiss the hands that have been dipt in the blood of their parents, and to obtain, if they can, leave to repurchase what they have no money to pay for.

No wonder that in a treaty where the principles of humanity are so little regarded, a decent respect for religion should have no place. In the territories ceded to Spain and France, the subjects who may remain, are not secured in the exercise of their religion. France shewed more attention to her subjects in the last treaty, nor could a toleration of the Protestant religion have been refused in the countries ceded by us, had it ever been proposed. Can the reverend prelates give the sanction of their approbation to such neglect, or can any Lords approve by a public testimony, articles framed upon such principles?

He then said it was too late, and he felt himself too much exhausted to enter into any discussion of the question started upon the extent of the prerogative to cede the dominions of the crown. He thought it necessary, however, as it had been maintained by Lord Shelburne just to declare, that having considered the question, he held a very different opinion, and knew it could be proved by the records of Parliament that no prerogative existed in the crown to cede without the authority of Parliament any part of the dominions of the crown in the possession of subjects under the allegiance and at the peace of the King.

The

The Lord Chancellor.

The *Lord Chancellor* left the woolsack, and made a long and most able answer to the noble and learned Lord who had just sat down. He could claim to himself, he said, no part of the attention of the House on the grounds of eloquence and oratory. These belonged peculiarly to the noble Lord who had so long and so ably endeavoured to fascinate their Lordships, and whose skill and address in managing the passions of his auditors was not to be equalled, and by a man of plain meaning, and sober understanding, whose only wish was to discriminate between truth and fiction, such as he was, not to be coveted. All the [illegible] chimeras of a fertile imagination had been add[illegible]; and he had no objection to see noble Lords indulge themselves in the display of their talents for the inventive, but he did object to their pressing their chimeras into a solemn debate, and substituting them for argument and reason. The noble and learned Lord would forgive him for treating what he had said lightly, as he professed, upon his honour, that his plain and narrow conception did not reach his meaning. He had thought proper to alledge that the prerogative of the Crown did not reach so far, as to warrant the alienation of territories, in the making of peace, which were under the allegiance and at the peace of the King. If this doctrine was true, he should consider himself as strangely ignorant of the constitution of his country; for till the present day of novelty and miracle, he had never heard that such a doctrine existed. He fancied, however, that the noble and learned Lord had thrown down the gauntlet on this subject, more from knight errantry than patriotism, and that he was more inclined to shew the House what powers of declamation he possessed in the support of hypothetical propositions, than anxious to define, or to confine a power wisely vested in the executive branch of our Government unquestioned, as to its utility, and much less as to its existence. He was the more convinced of this, when he heard the sources mentioned from which the noble Lord chose to draw his testimonies and arguments. One would have thought, that when a great, experienced, and justly eminent lawyer hazarded an opinion respecting a most important point of the constitution of this country, that he would think it necessary to produce proofs from the records and authorities of the State, or that at least he would shew that the common opinion and consent of men went with him; but, instead of this, the noble and learned Lord resorted to the lucubrations and fancies of foreign writers, and gravely

gravely referred their Lordſhips to Swiſs authors for an explanation of the prerogative of the Britiſh Crown. He, for his own part, rejected all foreign books on the point before them. However full of ingenuity or ſpeculation Mr. Vattell and Mr Puffendorf might be on the *droits des gens*, and other points, which neither were, nor could be fixed by any ſolid and permanent rule, he denied their authority — he exploded their evidence, when they were brought to explain to him what was, and what was not the prerogative of the Britiſh Crown. The ceſſion of the Floridas, if at all a queſtionable matter, was of primary importance, and ought not to be hurried over, in a very ſecondary way, in half words and mere hints, at the end of a pompous and declamatory ſpeech; that ſpeaking from ſimilar documents with thoſe referred to by the noble Lord, viz. his own judgment, the judgments of able men, the records of Parliament, the annals of the country, he did not think the ceſſion of the Floridas at all a queſtionable matter; if it was ſo, it was what he was ignorant of; and if the noble Lord would enter into the ſubject and diſcuſs it at large, he would follow him; and if he could not eſtabliſh a doctrine clearly contrary to that extraordinary novel idea now ſported by the noble Lord, he would confeſs his his ignorance ſtage by ſtage, and point by point, as the noble Lord ſhould eſtabliſh the proof, of which he had ventured to be ſo ſanguine. He was prepared to meet him, and to combat the queſtion, not, however, with the weapons which the noble and learned Lord had uſed on that night, of vague declamation, and oratorial flouriſhes — these he contentedly left with all the plaudits which they were calculated, and, perhaps, intended to gain — but with undecorated ſenſe, and ſimple argument. It was, in his opinion, more uſeful to ſtick to that rule of reaſoning and deduction, by which the mind was taught that two and two make four, than to ſuffer their underſtandings to be warped, and their eyes to be blinded by the faſhionable logic which delighted in words, and which ſtrove rather to confound what was plain than to unravel what was intricate.

But the queſtion immediately before the Houſe was, whether their Lordſhips ſhould agree to approach the throne with an addreſs of thanks, for the peace which had been concluded fairly, honeſtly, ſimply, approving of that peace, or whether they ſhould approach the throne with an addreſs of thanks for the peace, and at the ſame time diſapprove of, cenſure,

censure, and condemn that peace. This was precisely the question; and he begged to ask their Lordships, roundly and fairly, whether the bare statement of the question did not manifest its absurdity? What! to thank his Majesty for a thing of which they disapproved—to thank his Majesty for a peace, which, at the same time, they declared to be "inadequate to their just expectations, inconsistent with the relative situation of the belligerent powers, and derogatory to the honour and dignity of the empire!" Was this consistent? Was it common sense? Was it countenanced by usage in other instances? [Two voices from the other side said, it was.] The Chancellor then said he would pause till one or two of the instances should be brought before them. He desired to know, when this proposition was divested of all its dress and ornament, if it did not appear to them very inconsistent with the dignity of that House, who were to present the address, and of the Crown, who was to receive it. But, he said, it was thus artfully worded, for reasons which it was not difficult to discover; but he thought it unworthy of their Lordships to do that by a side-wind, which if they thought fit to do, it became the nobleness of their natures to do openly. If they thought the King's Ministers deserved censure for the peace which they had concluded, why not inflict their censure in that way which alone could make that censure a punishment, in a fair, manly, and direct manner, such as became the high character of that House? He reprobated all side-wind, indirect, crooked attacks, and said, the only fair and rational mode was to vote the address, and at any subsequent period move what they would on Ministers—a censure! an impeachment!

He then proceeded in a very high tone of dignity indeed, and exclaiming against the passion and declamation of the other side, said, *Non tali auxilio*—that such a glow and glitter of words were not required; and though some men of shewy parts, whose education and profession so led them, were apt to overvalue such accomplishments, and on these occasions give into their practice; yet the cold, unsophisticated, argumentative manner was alone that which became every one of their Lordships in a senatorial capacity, either to utter or to hear.

The noble and learned Lord then came to enquire whether the peace, which had been concluded, was, under all the circumstances of our situation, such as their Lordships ought in fairness to censure? In doing this, he enumerated the va-

rious particulars which had been adduced in the debate, and contended, that the articles were not ſubject to the ſevere objections which had been made againſt them.

He went over the ſeveral articles of the treaty, defending them much in the ſame way with Lord Shelburne; and then aſked, what was meant by the amendment moved to the addreſs? From what motives it aroſe he could not ſay, but this he would aver, the tendency could be nothing but miſchief! To unhinge all confidence in the peace — to ſound the alarm — to excite the ſpirit of war! — And yet was there any man in England, was there any individual in this Houſe, who dared to avow his wiſh to be for war? — If there was ſuch a one, let him come forth!

He pauſed —— As to the Loyaliſts, on whom ſuch violently impaſſioned language had been elaborated — of ſuch extraneous ornaments he would in the firſt place ſay, that with ſpeakers of ſuch ability as the laſt, they were quite foreign to the purpoſe; and with the men whoſe talents kept them in a lower order, ſuch expedients were not only impertinent, but diſguſting.

As to the Loyaliſts themſelves, they had a ſpecific proviſion in the treaty — his own conſcious honour would not let him doubt the good faith of others — his good wiſhes to the Loyaliſts would not let him indiſcreetly doubt the diſpoſitions of Congreſs. It was ſtipulated that all theſe unhappy (ſome of them deſerving) men, ſhould be provided for; in his conſcience he expected they would be provided for; but if not, then, and not till then, Parliament could take cognizance of the caſe, and impart to each ſuffering individual that relief, which reaſon, perhaps policy, certainly virtue and religion required.

The noble and learned Lord, who ſpoke laſt, towards the concluſion of his ſpeech, had turned, and not at all ironically, to my Lords the Biſhops. On this he made this one ſhort obſervation, that it was uſual with all men, who were eloquent by profeſſion, on each important ſubject to apoſtrophize the biſhops, and try to toſs into their own ſcale that weighty bench, by way of make-weight. But at preſent he ſhewed it to be nothing to the purpoſe.

He could not forget the anxiety nor the language of noble Lords, who, but a few, very few months ago, were the moſt eager and clamorous for peace. When thoſe perſons apprehended that the difficult taſk of making peace would fall upon themſelves, then our condition was painted in all, and,

and, perhaps, in more than its real gloom; and their Lordſhips were depreſſed and tortured with the accounts which were given of our navy, and our reſources. Then any peace, it was declared, would be a good one. A peace for a year even — nay, for a month — for a day was coveted — Any thing that would juſt give us breathing time, and ſerve to break the dangerous confederacy againſt us, would be a proſperous event. But when the grievous taſk was ſhifted to others, how did the language differ! The navy grew as it were by magic. The reſources of the ſtate became immenſe. The condition of the country flouriſhing; and the Miniſtry were to be tried by the ſtricteſt and moſt rigid law. The noble Lord dwelt on this glaring inconſiſtency for ſome time, and concluded a long and moſt ingenious ſpeech with a high commendation of the addreſs, and the moſt direct cenſure of the propoſed amendment.

Earl of Carliſle.

The Earl of *Carliſle* thought it neceſſary to ſhew that there was no ground for the imputed abſurdity in the motion as amended. They were to thank his Majeſty — for what? — For the communication of the Preliminary Articles of Peace — they were to hold that peace ſacred becauſe concluded — but they were with the manlineſs which became them, to declare that it was inconſiſtent with their expectations, and derogatory to the honour and dignity of the empire. In all this he could not perceive any thing abſurd.

Earl Gower.

Earl *Gower* concluded the debate, with declaring his opinion ſhortly, that the peace did not come up to his expectations. He thought we were entitled, from our condition, to better terms; but he did not think himſelf at liberty to reprobate it in the ſevere terms of the amendment. He was therefore in a ſtrange predicament — he could neither vote for the addreſs nor againſt it; and he ſhould therefore withdraw.

It being near half paſt four o'clock in the morning, the Houſe divided on the queſtion, that the words propoſed to be omitted ſtand part of the addreſs. Contents, 69; proxies, 3. Not-contents, 55; proxies, 4. Majority for the Addreſs, 13.

There were in the Houſe at one time of the day, one hundred and forty-five peers, which is a greater number than has been known on any queſtion during the preſent reign.

February 19.

The Lord Steward.

The *Lord Steward* reported to the House, that pursuant to their order of Monday last, the Lords with white staves had waited on his Majesty to know when he would be attended by this House with their Address, and his Majesty appointed this day at two o'clock, at St. James's

Their Lordships then went to St. James's, and presented the Address.

February 20.

The Lord Chancellor reported his Majesty's most gracious Answer to the Address of the House, which was as follows.

"My Lords,

"I RECEIVE with pleasure this dutiful Address, and have great satisfaction in observing that the Preliminary and Provisional Articles appear to you, as they do to me, to afford a reasonable prospect of such a Peace as will relieve my people from any burthens beyond what the expences of the war have rendered unavoidable, and, if properly improved, will ensure the national prosperity. These are always objects next my heart, and every measure which has the tendency to promote them, cannot but be acceptable to me. It is my firm purpose to execute every article of the Treaties on my part, with that good faith which has ever distinguished the conduct of this nation.

"I concur with you most entirely on the just expectation you entertain of the like attention in North America, to the stipulations in favour of the unfortunate sufferers by the war, which are founded in humanity and justice, and now recognized by public engagement. I do not entertain a doubt that this and every other article in the Treaties depending, will be finally settled and performed by the other Powers with that spirit of liberality and justice which becomes them"

No business till

February 27.

The House resolved itself into a committee on Williams's divorce bill, Lord Scarsdale in the chair, when, after a good deal of conversation on the subject, the Earl of Radnor rose to support the clause for bastardizing the children; which

which the Lord Chancellor ſtrenuouſly contended ſhould be rejected. The arguments uſed by Lord Radnor why the clauſe ſhould be retained, were principally theſe: that from the circumſtances which appeared, there could not be the ſmalleſt doubt of the illegitimacy of the children, and therefore their Lordſhips, in conformity with their former practice, were bound to decide in this caſe. If they adopted a different conduct on this occaſion, they would lie under the imputation of partiality, and of having made an invidious diſtinction; becauſe, was this a matter in which any of the nobility of this country was concerned, they would at once, when the teſtimony was ſo clear, determine the point, to preſerve the purity of blood, and defend the rights of families. He hoped, therefore, that their Lordſhips would agree with him in the neceſſity of preſerving the clauſe.

The Lord Chancellor

The *Lord Chancellor* ſaid, their Lordſhips ſhould ever make a proper diſcrimination between their legiſlative and judicial capacities, in caſes ſimilar to the preſent. In this inſtance, if they permitted the clauſe to continue, they very improperly, in his opinion, would blend both together. He contended they were going to decide private right on *ex parte* evidence. Thus perſons who were to be baſtardized, were not heard in their defence; there was therefore a poſſibility that the proof which now convinced their Lordſhips of their illegitimacy might be overturned, had they an opportunity or a capacity of defending themſelves, and on the principle that there was a poſſibility of the children eſtabliſhing their rights, they could not be precluded from availing themſelves of it without manifeſt injuſtice. Beſides, their Lordſhips ſhould conſider that the vote they were going to give to-day, would not be confined to this particular inſtance, but extend to all caſes of the ſame nature whatever. Suppoſe a bill was brought, in order to prove the illegitimacy of any perſon, and of conſequence to baſtardize him, would your Lordſhips, ſays he, entertain ſuch a bill? Moſt undoubtedly you would not. Why then, I would aſk, ſhould you decide here, and declare the children to be baſtards, when the matter is as inapplicable to adultery, on account of which, the bill was brought in, as it is to murder? Surely to puniſh innocent infants for crimes they were incapable of being parties to, was not conſonant to reaſon or humanity. His Lordſhip wiſhed that there was ſome judicial court eſtabliſhed by act of Parliament, in which proper powers might be veſted to grant a divorce, *e vinculo matrimonii*

ment; for as the law now stood, a divorce could be obtained in Doctors Commons only, a *mensa et thoro*. In such an act, crimes of this sort might be defined with such precision, that all ranks of people could at once know the magnitude of their offences, and the consequences that would result from them. It would prevent collusions between the parties, as, for many forcible reasons, courts of justice could come at the truth better than this House, from the nature of its constitution. How frequently have your Lordships seen large and ample settlements made on a wife to prevail on her to join in the collusion? What advantages have there not been held out by women of large fortunes in their own right, to get rid of disagreeable and odious husbands. I am always anxious to discountenance such infamous practices, because they may prove injurious to a harmless offspring, who were not capable of being parties to such abominable bargains. I shall conclude, said his Lordship, with imploring your Lordships not to establish so dangerous a precedent as this clause tends to make, for you should reflect, that what is granted in one instance, cannot be refused in another of a like principle, and that the resolution you may now come to, will extend farther than you are aware of.

Lord Ashburton.

Lord *Ashburton* said a few words in reply, and supported the clause; as did also the Duke of Richmond.

The House divided, when there appeared, contents for the clause, 6; non contents, 9.

A motion was then made, that the bill should be farther considered on Monday, when the House divided again. Contents, 9; non contents 7.

Adjourned to Monday.

March 4.

Their Lordships were summoned to take into their farther consideration Williams's divorce bill on this day, when, as soon as they were met,

Lord Ashburton.

Lord *Ashburton* rose, and after a few prefatory words expressive of the humane necessity of a motion he was about to make, substantially moved that, after the recital in the bill, that mentioned the provision that the young children of the marriage were to have, a clause should be inserted, purporting, that the children born subsequent to the deed of separation between the parties, which had been produced in evidence at their Lordships bar, should be intitled to such provision,

proviſion, unleſs they ſhould prove the legitimacy of their birth.

As ſoon as the clerk had read the motion,

The Lord Chancellor.

The *Lord Chancellor* got up, and obſerved, that, in his opinion, the matter now offered to their Lordſhips conſideration, had been agitated on the day they laſt met. The Houſe had then declared its opinion, that it would be improper to decide upon a queſtion which did not come equitably or legally before them. The queſtion of divorce was before them, and the queſtion of divorce only. The queſtion of the legitimacy or illegitimacy of the offſpring of the marriage, was as much *coram non judice* as any extraneous matter that it was poſſible for the wit of man to conceive, and of courſe, every thing touching on that point was at preſent unfit for the diſcuſſion of their Lordſhips, either collaterally or incidentally. Viewing the motion in this light, he muſt conſequently deem it nugatory. But he would ſuppoſe for a moment that it was not ſo. He would ſuppoſe that their Lordſhips had not already decided the buſineſs. What were they now brought to do? Was it to interfere in a matter to decide which, there was no law of the land entirely competent? No, the interpoſition of the Houſe was called for, when there were tribunals exiſting fully adequate to the cognizance of the affairs of that nature. His Lordſhip ſaid he was not fond of troubling the Houſe with the repetition of old arguments, but ſhould reſt his objection to the motion chiefly on this principle—a principle, which wiſely obtained at this moment, not only here but over all Europe, "No court of juſtice is competent to decide upon the right of a party who is not properly before it." Is the party, ſaid the Chancellor, whom your Lordſhips are deſired by this motion to thruſt out of the protection of this wiſe and humane principle, now properly—now at all before you. The infant is not. On the contrary, though there be no poſitive proof of a colluſion to undermine his helpleſs intereſts, I maintain it, that there is full evidence before your Lordſhips to pronounce that theſe intereſts are not defended as they ought to be. In fact, they are abandoned. The mother is ſerved with a bill, ſetting forth, that among other things, ſhe is to have a ſeparate maintenance of 150l. a-year on a divorce *a vinculo matrimonii* taking place, and ſhe is warned to appear, if ſhe thinks fit, and oppoſe this bill. Does ſhe oppoſe it? No; but ſhe ſends an attorney here, to acknowledge that ſhe ſigned the deed

deed of ſeparation which provided her this maintenance. What the woman's inducements, beſides the annuity I have now mentioned, could be for abandoning her own and her child's character, are not now before your Lordſhips, nor perhaps ever will. All on this head is conjecture. In this obſcurity, however, it is fair for us to think, that ſhe who ſacrificed her own honour to the lewdneſs of his temper, will make little ſcruple of immolating her child's fame and fortune at the ſame frantic ſhrine. In a word, my Lords, while there are tribunals in this land equal to the diſtribution of juſtice in caſes like the preſent, I cannot, conſiſtent with my conſcience, vote that this Houſe ſhall unneceſſarily take the buſineſs out of their juriſdictions, and I muſt therefore expreſs my diſapprobation of the motion. We ought not to throw the *onus probandi* of his legitimacy on the infant. The law of the land does not do ſo.

Lord Aſhburton.

Lord *Aſhburton* argued, that no colluſion appeared on the evidence produced to ſupport the bill, but he did not conceive that evidence of colluſion was a reaſon why a bill of divorce ſhould not paſs. Colluſion might be honourable. A criminal woman owed the reparation to her injured and abuſed huſband, of furniſhing the evidence neceſſary to his relief. It was all that after the violation of her ſacred vows ſhe could do. Here, however, there was no proof of colluſion. It was true, the woman did not appear to oppoſe it, and why? She was conſcious of the baſeneſs of her conduct, and could not therefore attempt to vindicate or palliate it; of courſe, all that could be done was to confeſs the ſignature of the articles of ſeparation; one of the witneſſes to which did ſo, and the other witneſſes would alſo have appeared for the ſame purpoſe; but one of them was then in France, and the other was an apothecary of great buſineſs in the country, which he could not, without vaſt detriment to himſelf and his cuſtomers, omit attending, though but for a day. He ſaid, it would be a very great hardſhip in a caſe ſo clear, if, at a diſtance of twenty years, the *onus probandi*, in regard to the baſtardy of the iſſue, which was now ſo evident, ſhould then lie upon the unhappy man who had been ſo diſhonoured by his wife; he muſt therefore, notwithſtanding the great ability in argument diſplayed by the learned Lord, ſtill adhere to his former opinion, and deem the clauſe he wiſhed to introduce into the bill not only a juſt but a humane one.

One or two explanations then took place between the Chancellor and Lord Ashburton, with respect to some particulars which seemed to have been misunderstood by them reciprocally in the course of their respective speeches.

And upon a division of the House, there appeared in favour of the question, contents, 12; non contents, 10.

Adjourned to Thursday.

March 6.

No business.

March 10.

On the first reading of the bill for the permission of the heads of different colleges to marry,

Lord Mountford — Lord *Mountford* moved that a day should be fixed on for the taking the bill into consideration.

The Earl of Radnor. — The Earl of *Radnor* wished the bill should be printed for the inspection of their Lordships, which he did not conceive could be objected to, as it came from the House of Commons as a public one; nor had it paid any fees, which would not be the case was it looked on as a private bill.

The Lord Chancellor. — The *Lord Chancellor* said, though it should be considered by the Commons as a public bill, yet that was no rule for their Lordships conduct. They had orders for their own direction, which had no reference whatever to those of the lower House. He did not know whether there had been any fees paid or not, nor did he think it was of any consequence one way or other. He contended that the suffering of it to be printed would be a violation of the rules of the House. He said it would be requisite, before they came to any final resolution on the bill, to have the charters of those colleges laid before them, in order that what they were going to do, they might know to be strictly proper. The right way to deal by the bill, would be to refer it to a committee for consideration, as is customary with all private bills.

Lord Dudley. — Lord *Dudley* hoped the bill would be printed, and that a day would be appointed for going into it.

Earl of Bathurst. — Lord *Bathurst* said, before any day could be determined on, the bill must previously be printed.

Ld. Ferrers. — Lord *Ferrers* expressed his wishes that the day would arrive,

tive, when all bills both public and private would be printed, as he thought it would be of great benefit.

Adjourned to Wednesday.

March 12.

A motion having been made, that the bill allowing heads of colleges, &c. at Oxford, to marry, be read a second time on Friday next.

The Lord Chancellor.

The *Lord Chancellor* desired to call the attention of the House to the bill, for the second reading of which on a future day, a motion had been just made. The bill, his Lordship observed, was brought in as a public bill, and ordered to be printed *eo nomine*, although it differed in the forms under which it had been introduced, and in its consequences, essentially from such bills as were usually deemed public bills. It behoved the justice of the House, therefore, to consider a little the nature of the bill, so extraordinarily urged, before they proceeded to give their sanction to it. He did not mean then to go into a discussion of the bill itself, because the motion did not call for any such discussion; as little was he desirous of stating to the House the secret purpose that was at the bottom of the proceeding, to mention which he should be extremely unwilling, and still more so to make those observations upon it, which impressed his mind very forcibly, but which he certainly would state to the House, if the matter was so far pushed as to render his doing so a point of indispensible duty. His Lordship called upon the House to recollect, that the purport of the bill was to change an estate settled upon express condition of the celibacy of those who enjoyed and shared its income, into an estate free from any such restriction or condition. That all the colleges of Oxford were apparently involved in the effect of the bill, if it passed, although upon an investigation it would perhaps appear, that two colleges only were in the view of those, who had set the bill on foot. That it was neither consistent with the usual practice of the House, with the dignity, the honour, or the justice of their Lordships, to pass a private bill, without hearing the parties interested, and who were to be chiefly affected by its operation, as far as they could be heard; and without enquiry, whether their interests, upon fair and honest considerations, ought to be suffered to be so affected, as the bill was likely to affect them, if it became a statute. In the instance of the bill

just

just moved to be read a second time on Friday, their Lordships had not heard a syllable on the part of those to be affected by it, nor enquired at all into the justice of so changing the nature of the estates settled upon the colleges in Oxford, as they were by the bill desired to change it. Before, therefore, they proceeded farther, it behoved their Lordships to have the statutes of the colleges, the construction of the visitors of those colleges upon such statutes, the bye laws of the visitors, and every document that had grown out of the college statutes upon their table. If the present motion was carried, he desired to be understood as giving notice, that he would, on Friday next, move, "That all the statutes, bye-laws, and papers, should be laid upon the table previous to the House's proceeding to read the bill." His Lordship made a distinction between the statutes of the university, and the statutes of the colleges, declaring that their constitutions were separate and distinct, and as the bill was likely to affect the colleges individually, he would not move for the statutes of the university. After dwelling upon this for some time, his Lordship urged the extreme delicacy and attention that private bills called for, and saying, he feared that æra was in the womb of time, when a practice, so derogatory to the honour and justice of their Lordships, and which had never yet been chargeable to them, as the suffering themselves to be applied to by cards, to entreat their attendance on private bills, would obtain. The moment that shameful æra arrived, it would at once put an end to the possibility of any private bills passing under that sort of scrupulous investigation and nice enquiry, in that House, without which, it was impossible for their Lordships to do equal justice to all the subjects of this realm. Having added various other remarks, in order to urge the House to pay the bill that degree of attention which it indisputably required, his Lordship said it was highly necessary to come at the true purport of the bill, and to distinguish the two colleges, really its object, from the rest of the eighteen colleges of Oxford, who certainly would, in some degree, be affected by it. For which reason, their Lordships would have occasion to see the statutes, bye laws, &c. that he had mentioned. He was himself, he said, master of those statutes, and of all the observations that occurred upon them, and should be ready to go upon them on Friday; for

the present, however, he would content himself with negativing the motion, as far as his single voice would go.

Upon putting the question, the Lord Chancellor said, the not contents have it; which, not being objected to, the motion was lost, and the bill remains *sub silentio*, till some Lord shall move for the second reading of it on some future day.

No business till

April 2.

The Earl of Radnor.

The Earl of *Radnor* rose, and, adverting to the variation of style observed by their Lordships the other day, between the writ of summons by which a noble Lord (Lord Sydney) was lately called up to the House, and the patent which created him a Peer, said, that the opinions of some of their Lordships on that occasion (that it was a matter of no great significance) were of such high authority with him, that they staggered certain apprehensions which he then entertained on the subject; but that since that time having turned the matter with deliberation in his mind, and consulted books, and other advice and intelligence respecting matters of that nature, he was in a great measure confirmed in his former sentiments, and thought the business of so serious a nature, as highly to deserve the attention of the House. His Lordship displayed a great deal of reading and information on the subject; and stated particularly two remarkable instances of the variation of the style or title of Peers between their patents and the writs by which they were summoned to Parliament, which were productive of great confusion The one was in the time of King William, and respected the noble family of Ancaster; the other related to the noble house of De Ferrers. His Lordship said, he had in his pocket numerous other cases of a similar nature, which he would produce to any of his noble audience who were inclined to examine them, to evince the propriety and necessity of the motion he was about to do himself the honour of submitting to the House. He thereupon moved substantially as follows: "That it having been noticed, that variations in regard to the address, style, or title of Peers sometimes appeared between their patents of creation and writs of summons, which might possibly hereafter produce confusion, difficulty, and trouble; the House do therefore refer it to a committee of privileges, to examine the matter,
and

and to point out ſuch ſtyle or form of addreſs as ſhall in future be obſerved in all patents, writs of ſummons, and original writs, whereby the evils to be apprehended from the diſcordance and impropriety hitherto obſervable, may hereafter be avoided."

The Lord Chancellor having read the motion, deſired to know from the noble mover at what time he wiſhed the matter ſhould be referred to the committee of privileges, and Lord Radnor intimating his aſſent to the ſuggeſtion of Wedneſday ſe'nnight, the motion was put accordingly, and carried.

The Lord Chancellor.

The Duke of *Athol* moved the Houſe to reſcind a ſtanding order on their table reſpecting a charity in the Iſle of Mann, which his Grace informed their Lordſhips might be highly benefited by ſuch a reſolution, as there was an offer made by Lord Derby of purchaſing a ſmall income of that foundation, of only 219l. a-year, at ſo extraordinary a price as 7000l. The very great advantage which the charity would derive from ſuch purchaſe was ſo obvious, that his Grace ſaid it was unneceſſary for him to enlarge upon it; he ſhould therefore only formally make his motion.

The Duke of Athol

The *Lord Chancellor* quitted the woolſack, and oppoſed his Grace on this ground, that where the Houſe had once, on the moſt deliberate conſideration, thought fit, by a ſtanding order, to change the property of a charity, and inſtead of money to inveſt it in land, it would not be conſiſtent with their wiſdom, however ſpecious the pretext, which men intereſted in a farther alteration might hold out, to reſcind the ſtanding order which they had on ſuch mature reflection adopted.

The Lord Chancellor.

The Duke of *Athol* declared he ſpoke merely as a truſtee.

The Duke of Athol.

The queſtion was then put and negatived.

The Houſe then heard evidence in the bill of divorce, Edw. Bayntun, Eſq. from his wife, Lady Maria Coventry.

April 2.

Heard farther evidence in Mr. Bayntun's divorce bill.

April 4.

Heard farther evidence in the ſame bill.

April 8.

The Earl of Mansfield.

The Earl of *Mansfield*, who sat as Speaker*, the seals being in commission, was putting the question of adjournment, there being no business, when he was interrupted by

The D. of Richmond.

The Duke of *Richmond*, who mentioned, that in the present situation of the empire, a multiplicity of great and important matter must of course offer itself to the consideration of the great Council of the land, and every friend to his country must be eager to bring forward such portion of it as fell within his particular observation, and consequently his care. His Grace, for his own part, declared he meant not to be inactive. He had many things to submit to parliamentary deliberation, and he wished not to procrastinate; but a rumour had been spread, that the House was soon to receive an honourable increase, by the introduction of one of the late appointed Secretaries (Lord North). It was a report which, if true, he most heartily rejoiced in, as it was customary for one of that department of the State, to sit constantly among their Lordships, and it was necessary it should be so. He therefore rose to request some information to be depended on concerning the foundation of the rumour. His Grace then turned to the Duke of Portland, who was sitting at his right hand, and said, that probably he might receive some intelligence from that quarter. His reason for enquiry he declared to be a willingness to postpone some motions on affairs of importance, which it was his intention to make as speedily as possible, in case he should be warranted in this delay by any certainty of knowledge, that the Secretary in question would take his place in the House any time before the holidays.

The Duke of Portland

The Duke of *Portland* (First Lord of the Treasury) replied, that it would always give him pleasure to be able to inform, not only his noble friend, (for so he trusted he would be indulged in the liberty of calling his Grace) but in general the House, upon any point in which it might be thought proper to honour him with an interrogatory. With respect to the present question, he could only say that the report was true, that the Secretary alluded to was to be called up to a seat among their Lordships, but when precisely that

* For the change of the Ministry, vide Commons Debates of the same date.

event

event would take place, it was not in his Grace's power to ſay, for reaſons that muſt be obvious to every one who heard him. In the mean time he ſaw no reaſon why the buſineſs of the nation ſhould be procraſtinated on that account. Whatever matters his noble friend had to offer to the notice of the Houſe, need not, in his opinion, ſuffer the delay of a ſingle inſtant. However he did not ſpeak this decidedly, but merely as conjecture, ſince his Grace had not thought fit on putting this queſtion to him, to ſtate to the Houſe the nature of that buſineſs, which he expreſſed his willingneſs to poſtpone.

The D. of Richmond.

The Duke of *Richmond* thanked his Grace for the honour he had done him in calling him his friend, and ſaid he ſhould endeavour, on all occaſions, to convince him, that he was not unworthy of the appellation. With regard to the buſineſs he meant to lay before the Houſe, his Grace might be aſſured he would always give their Lordſhips neceſſary and proper intimations of his motions. At preſent he was ſo well ſatisfied with the anſwer which had been given to his queſtion, that he would drop all idea of bringing forward his motions, at leaſt before the holidays.

April 9.

The Earl of Mansfield.

The Earl of *Mansfield* put the queſtion for their Lordſhips adjourning during pleaſure, whereupon

Lord Weymouth.

Lord *Weymouth* informed his Lordſhip that ſuch a queſtion was unneceſſary, and contrary to form, ſince on the reading of the order of the day on Mr. Bayntun's Divorce bill, the adjournment was matter of courſe, and paſſed *ſub ſilentio*.

Lord Thurlow.

Lord *Thurlow* (the late Chancellor) ſaid, that it would be proper before their Lordſhips took the buſineſs into conſideration in a committee, that the proceedings in the divorce cauſe at Doctors Commons, antecedent to the judgment, ſhould be laid upon the table, otherwiſe, in his thoughts, the Houſe would be very incompetent to decide upon a queſtion, the whole merit of which might be ſubmitted to their inveſtigation, and yet were not.

Earl Bathurſt.

Earl *Bathurſt* moved that an order ſhould be made for the proper officer from the Commons to attend the Houſe with thoſe proceedings.

Lord Thurlow.

Lord *Thurlow* did not apprehend that ſuch an order would be either neceſſary or proper, ſince it was the buſineſs of the

party

party who brought any matter before the Houſe for receiving the benefit of their Lordſhip's deciſion, to lay before them every evidence requiſite to ſupport his caſe. It was by no means neceſſary for this purpoſe in the preſent and ſimilar caſes, that the proper officer ſhould be ordered to attend with the original records of the proceedings had in the courts below; on the contrary, orders of that nature ſhould be diſcouraged as much as poſſible, and the more convenient mode of obtaining evidence of the nature in queſtion, by means of authenticated copies of the proceeding, ſubſtituted in its ſtead. Theſe copies might lie upon their Lordſhips table, and be kept conſtanly by their own clerk for occaſional inſpection. And this was an advantage that could not be derived from the haſty view of the original records brought up by the proper officer, who could not, conſiſtent with the duty of his employment, ſuffer them to be taken out of his cuſtody and care. Beſides, it was probable that the original records might, according to this mode of practice, be wanted in ſeveral courts at once, it would be therefore a hardſhip on the officer, to render him liable to be worried in ſuch a manner, when evidence equally as good as the original might be produced without the ſame inconvenience.

Earl Bathurſt.

Earl *Bathurſt* ſaid a few words, which were little more than a coincidence of opinion with the laſt noble ſpeaker, and a repetition of his ſentements, which he wiſhed to have underſtood in future by thoſe who ſhould have buſineſs before the Houſe, as a direction for their conduct.

Lord Sondes.

Lord *Sondes*, with ſome little heat, ſaid he could not conceive that there was any thing peculiar in this caſe, which took it out of the common routine of practice ordinarily obſerved by the Houſe. This remark ſeemed to be addreſſed to

Lord Thurlow.

Lord *Thurlow*, who acquainted the Houſe, that he could have no view in any thing which he had ſaid on the occaſion, but the promotion of that dignity and wiſdom of deliberation that ought to characterize the proceedings of their Lordſhips. He did not know till that inſtant, that it had been cuſtomary for the Houſe to content itſelf with hearing the judgment only, without regarding the prior proceedings; for whenever he uſed to aſk queſtions relative to theſe proceedings, they were always anſwered with as much currency, as if the written matter was before the perſons who uſed to reply to him; but that, as a reference in the preſent caſe had been made from the *viva voce* evidence delivered at

their Lordships bar to the proceedings had in Doctors Commons, he happened to desire to see the written proceedings, and was much surprised to find they had not been laid upon the table. It was therefore, that he suggested the propriety of having them. His Lordship then acquainted the House, that since he came in, a letter had been put into his hand, signed Robert Johnson, which he would read as part of his speech. Lord Thurlow did so, and it appeared to be a request to the House that they would be pleased to examine the writer of it farther on the divorce bill, as he recollected many circumstances since his last examination, which would throw new light on the collusion by which the Bayntun divorce bill, he said, was intended to be obtained, and would also fling the infamy of perjury which the two Bayntuns (the brothers of him who sued for the divorce) by their testimony would load him with, off his shoulders on theirs. His Lordship then wished to know whether it would not be proper to re-examine this witness when next the matter came under consideration.

Lord Mansfield.

Lord *Mansfield*, upon this, put the question for adjourning the farther consideration of the bill till Tuesday next.

Ld. Sondes.

Lord *Sondes* said, he did not know why a day should be lost; but the question was carried notwithstanding.

The Earl of Sandwich.

The Earl of *Sandwich* then rose and moved, that the Mess. Bayntuns should attend on Tuesday, to have an opportunity of vindicating their evidence, in case their Lorships should think fit to re-examine Mr. Johnson.

It was thereupon ordered accordingly; and Johnson, together with the Bayntuns, are to attend on Tuesday.

April 11.

IRISH JUDICATURE BILL.

As soon as the Duke of Portland came into the House, the Earl of Abingdon called for the order of the day.

The Earl of Mansfield.

The Earl of *Mansfield* told him there was no order of the day.

The Earl of Abingdon.

The Earl of *Abingdon* said he understood that the second reading of the bill was to come on that day, nor had he learnt, till he came down to the House, that it was not an order regularly entered agreeable to notice; it was a matter of the most serious consideration. He was ready to deliver his sentiments upon it, and he begged the House to understand, that he meant not to oppose the bill. At the same time,

though it suited his convenience better then, than it would any other day, and though he understood Mr. Grenville was kept here merely for the bill's passing, he would readily consent to wait till some other day was appointed for the consideration of the bill, that should be more agreeable to their Lordships in general.

The D. of Richmond.

The Duke of *Richmond* said, he knew it would be irregular for him to enter into the consideration of the bill at that time; but though he meant not to oppose the bill, yet as it materially affected the interests of both kingdoms, he meant to trouble the House with some observations on a subject so important in every point of consideration, but that he had been in hopes the magnitude of the bill, and the seriousness of its consequences, would have pointed out the necessity of some Lords moving that a day be set apart for the solemn discussion of it, and that the Lords be summoned. His Grace alluded to some conversation that had passed on the same topic on a preceding day, in which it had been generally understood that the bill would be taken up by some Lord or other on that day, though it was not regularly given notice of, or entered on the books as an order in form.

The Earl of Mansfield.

The Earl of *Mansfield* said, that there had been no notice of any particular day given, and consequently no entry had been made, so as to render a second reading of it an order of the day. A conversation about it had taken place on a former occasion (as the noble Duke had just mentioned) when though no formal notice of a day on which it was to be read a second time was given, it was generally understood that it would be taken up on this day.

The Earl of Abingdon.

The Earl of *Abingdon* conceived it to be the business of the Minister, to give notice of the particular day, on which the bill should be read a second time, and to move, that the Lords be summoned. It was not his fault, therefore, that such a form, if necessary, had not been complied with. He should be glad to hear from the noble Duke near him, whose business it immediately was to move, that the House be summoned, when he wished to have the bill read a second time.

The D. of Portland.

The Duke of *Portland* (we con[illegible]) said, in a low tone of voice, it lay with the House to [illegible] for themselves.

Ld. Abingdon.

Lord *Abingdon* aloud replied, "No; it is your business."

Lord Thurlow.

Lord *Thurlow* pulled the Earl by the sleeve, and reminded him, that he was disorderly in personally addressing any Peer.

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The Duke of *Portland* ſaid, that by the addreſs perſonally made to himſelf, the noble Earl ſeemed to imagine it was more peculiarly his duty than that of any other Peer; he did not conſider it to be ſo, and every Peer was equally entitled to move for their Lordſhips to be ſummoned. He ſhould in that, as in every other part of his parliamentary conduct, be guided by their Lordſhips' judgment, not doubting but that their wiſdom and diſcretion would lead them to do what was proper. With regard to the converſation that had taken place upon the bill on a former day, he took ſhame to himſelf for having ſo far neglected his duty as to have been abſent on that day, but it was not altogether his fault. He had been wholly unapprized that the bill would have become the ſubject of converſation when it did, and the kingdom had been for ſo long a time kept in a moſt extraordinary ſituation that—but he would not go into that ſubject then, nor enquire why it had been ſo kept, nor where the fault lay; it was enough for him to ſay, and he truſted the Houſe would give him credit, when he declared, that ſo great a weight of public buſineſs had fallen upon him all at once, in conſequence of his having been perſuaded to accept the ſtation in which he then ſtood, that his taſk was extremely heavy and laborious indeed. With regard to the bill in queſtion, their Lordſhips muſt know that he could have had no hand in framing it; it had been carried to the ſtage it had attained, by others, and conſequently he could not anſwer for its contents. He left it, therefore, wholly to the judgment of their Lordſhips when to proceed with it, and in what manner.

Duke of Portland.

Lord *Sydney* ſaid, he muſt beg leave to trouble their Lordſhips, for ſomething that had fallen from the noble Duke, made it impoſſible for him to ſit ſilent. With reſpect to the bill, it was certainly a meaſure of infinite magnitude and importance; and as he had not only had the honour of moving that it be read a firſt time by their Lordſhips, but had originally introduced it into the other Houſe of Parliament, if any one Lord was more anſwerable for its contents than another, it was himſelf. He had moved that it be read a firſt time by their Lordſhips; but an interregnum of adminiſtration, (as it had been called) having taken place, he had, upon the opinion of ſome noble members of that Houſe, of the firſt weight and authority, forborne to agitate it farther, from a conſideration, that to do ſo after he had quitted his Majeſty's ſervice, would be extremely indecent

Ld. Sydney.

and improper. Having taken up that opinion, he had submitted it to the noble Duke near him [the Duke of Portland] and having done so, he owned, he had thought it became him to leave the matter to the discretion of the noble Duke, imagining, that his Grace would, at a fit opportunity, proceed with the bill. His Lordship said farther, that if it were not deemed improper, he would move that the bill be read a second time on some near day, and that their Lordships be summoned. [Several Peers cried out move! move!] His Lordship thereupon moved, "that the bill be read a second time next Monday, and that the Lords be summoned."

The D. of Richmond.

The Duke of *Richmond* thanked the noble Lord near him for having made the motion, their Lordships had just heard. He could not, however, help rising to express his disapprobation of what had fallen from the noble Duke on one side of him, and the noble Lord on the other. The noble Duke had said, he was not answerable for the contents of the bill in question, and the noble Lord had very candidly stated the share he had taken in getting the bill into the stage in which it stood at that moment, and had said, that if any person was more answerable for it than another, it was himself. To this sort of reasoning, his Grace said, he never could accede. Generally speaking, no indvidual member was more responsible for an act of Parliament than another. The whole legislature was in fact responsible; but still, considering the present bill to be a measure of the first importance, a measure deeply interesting in its nature to all the remaining parts of the British empire, as every part of the empire would be more or less affected by its operation and its consequences, it was not a bill which ought to rest merely upon general grounds, any more than upon individual responsibility. He therefore could by no means agree, that it ought to go forth as a bill, for the contents of which the Minister had declared himself irresponsible. It was not enough for him, that the noble Lord near him had avowed himself answerable; the bill must be a measure of government, or it ought not to pass. It was not, he conceived, either the intention of the noble Duke near him, nor of any other person, that the present bill should be the conclusive measure with respect to Ireland, or that government meant to stop there, and do nothing more upon the subject. He supposed the noble Duke meant to proceed farther, and that this was but a part of a system. If so, it was necessary that the noble Duke must have an opinion upon the present bill. It was true the bill had been

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proposed, framed, and brought to the stage in which it stood by a former Administration; but standing where it did, something must be done upon it, and the noble Duke must necessarily declare, whether his opinion was that it ought to proceed, or whether, having a system of measures of his own with which it would not accord, his opinion was against it, and that it ought to be rejected.

The D. of Portland.

The Duke of *Portland* said, if the noble Duke had delayed his remark till the bill had been properly before their Lordships, and he had heard, whether he had an opinion upon the bill or not, and whether his opinion was for it or against it, he should have thought the noble Duke would have acted more properly. His Grace then repeated what he had said respecting the little time he had been in office, and the great weight of business upon his hands. He also made an apology to the House for having accidentally kept them waiting that day; he declared himself infinitely indebted to their patience and candour, and assured their Lordships nothing should have induced him to have intruded upon either, but the public concerns. A matter of the most important and pressing nature had detained him from the House that day, or he would have been down sooner. The Duke declared he by no means rejected the responsibility which his situation threw upon him: he only wished to be permitted to say what his opinion was, before any noble Lord assumed that he had not formed one upon that or any other bill that might come before their Lordships.

The D. of Richmond.

The Duke of *Richmond* rose once more to declare, that he was not conscious of having made a remark, that was either improper in itself, or in point of time. What he had said, was an observation excited by an observation. The noble Duke had declared, the bill had been brought in by others, and conducted by them to its present stage, and that he was not answerable for its contents. That had naturally called forth from him a remark, that government must be in some sort responsible for every great and important public measure. With regard to the load of business that had fallen on the noble Duke, he was ready to admit, that the noble Duke must have his hands full, and that he was not to be expected to come down to the House, but when it was known that real business required his presence. All he wished was, that the noble Duke would consider, that a bill's having been brought in by a former administration, was no argument why the administration in power, when it passed into a law, were

not responsible for it. — It behoved them either to take up the bill, if they approved of it, and conduct it to its completion; or to reject it, if they disapproved of it, or had any system of their own forming, that they thought preferable.

The D. of Chandos.

The Duke of *Chandos* said, he did not mean to oppose the bill, but he should have something to offer to their Lordships' consideration respecting the situation and interests of Great Britain and Ireland, when the bill came properly before the House as a subject of debate and discussion. His Grace declared, he had been unapprized that there was any intention to take up the bill on that day, till he heard of it accidentally. At the time the information was given him, he was from home; but as soon as he received it, he hastened to his house to prepare himself to attend their Lordships, for fear he should be too late. On his arrival at the House, on examining the clerk's paper, he found the second reading of the bill was not an order of the day, and that no motion had been made for summoning their Lordships upon it His Grace declared himself astonished that it should ever have been thought right to proceed at all upon a bill of such serious importance, without full notice being given of the day on which it was to be proceeded upon, and without their Lordships being summoned. A new administration, the Duke said, had lately been settled; many remarks offered themselves to his mind upon that subject, but he would forbear going into them then, and would content himself with saying one thing only, and that was, earnestly to recommend it to the noble Duke, as long as he was Minister, carefully to avoid any thing like an attempt to run a bill of that magnitude and importance through the House, and never to proceed upon such a bill, without giving full notice, and moving that the Lords be summoned, in order to afford their Lordships time to weigh the matter fully, and to form their judgment upon it before they came to debate it.

Lord Thurlow.

Lord *Thurlow* said, he rose to do that in candour, which he should at all times be ready to do, viz. to take that fault upon himself, which he knew belonged to him, if any fault it were, and not to remain silent, when he heard other Lords blamed for it. With regard to the complaint just made by the noble Duke, that the bill ought not to have been proceeded upon, without their Lordships having been summoned, he believed it was owing to him that their Lordships had not been summoned. When the bill was spoken of on a former day,

day, the noble Duke who had risen early in the debate, [Duke of Richmond] had said pretty nearly what their Lordships had just heard, viz. that he meant not to oppose the bill, but merely to offer a few observations upon the state of the two countries. He had, upon hearing that, conferred with the noble and learned Lord upon the woolsack, and it had been their opinion, that such sort of speaking to the bill, as the noble Duke had intimated his intention of, did not render it necessary that the House should be summoned. It was owing to this inadvertent conversation, and to that only, that the House had not been summoned. His Lordship said, he would farther declare, that he had been the person who advised the noble Lord, who had moved the first reading of the bill, not to move the second, but to let the bill remain till his Majesty's present Ministers chose to take it up. With regard to the responsibility for bills like the present, certainly, to speak in general terms, the whole legislature, and each individual member of each House of Parliament was alike responsible, but Ministers were bound to inform the House upon what principles of policy each bill of a great and important nature was introduced; how it was to be applied, what other parts of a system it belonged to, and upon what grounds they were led to imagine it would answer the purpose for which it was introduced. Without such information from Ministers, (and from them only it could be expected) it would be impossible for either House of Parliament to know, whether it was judicious and right for them to receive such a bill as the present, and to proceed to pass it into a law. The bill then under discussion, had been the proposition of a former administration; had those Ministers remained in office, he should have thought their conduct astonishingly strange indeed, had not the noble Lord risen up, and informed their Lordships of the grounds, upon which he and his colleagues had been induced to adopt the measure then before the House, why they thought it a fit measure for Parliament to sanction, the policy upon which it was founded, and what other steps they meant to follow it up with. Had that administration continued, and the noble Lord had not done so, he should from motives of friendship to the noble Lord, as well as upon public considerations, have called for such an explanation. As soon, therefore, as he learnt that a new administration was in office, he advised the noble Lord to whom he had alluded, to let the bill wait,

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from an idea that a new Ministry might proceed upon a ſyſtem of their own, to which the bill then under diſcuſſion might not be adapted. He ſaid, when the bill was introduced, he took it for granted, it was a part of a large, a wiſe, and comprehenſive ſyſtem, carefully digeſted and ſuited to the occaſions and ſituations of the two countries. If the noble Duke now at the head of affairs went on with the bill, the Houſe would naturally expect the noble Duke to inform them what the ſyſtem his Majeſty's preſent Miniſters had formed was, and how this bill was adapted to it as a part of the whole. His Lordſhip obſerved, that the bill then before the Houſe had been concerted with the advice of the preſent Lord Lieutenant of Ireland. A noble Lord of whom both in private, and in public he had heard ſufficient in praiſe to convince him that he was a man of great abilities, of great wiſdom, and of great integrity. Advice coming from ſuch a man, and it being conſidered what a great ſtake that noble Lord had in both countries, too much attention could not certainly be paid to the noble Lord's ſuggeſtions. For theſe reaſons, he hoped, moſt anxiouſly hoped, that the noble Lord was not to be recalled, but was to remain where he was, and where he had conducted himſelf in his high capacity, in a manner that redounded ſo much to his own honour, at the ſame time that it was productive of infinite advantage to the intereſts of both kingdoms. His Lordſhip reaſoned upon this for a conſiderable time, and ſaid, that if unfortunately the noble Earl was to leave Ireland, and any body elſe was to be ſent there, it would become the noble Duke more particularly to inform the Houſe, in the fulleſt manner, how the preſent bill would ſuit that ſyſtem which the adminiſtration of this day meant to purſue, that the Houſe might judge of the propriety, practicability and policy of the whole, before they darkly and blindly gave their ſanction to one part only.

The Earl of Mansfield.

The Earl of *Mansfield* then put the queſtion, "that the bill for removing and preventing all doubts which have ariſen, or might ariſe, concerning the excluſive rights of the Parliament and courts of Ireland, in matters of legiſlation and judicature; and for preventing any writ of error or appeal from any of his Majeſty's courts in that kingdom from being received, heard, and adjuſted, in any of his Majeſty's courts in the kingdom of Great Britain," be read a ſecond time on Monday next, and the Lords be ſummoned. Ordered.

April

April 14.

IRISH JUDICATURE BILL.

The order of the day being read for the Irish Judicature bill to be read a second time, and the bill having been read accordingly,

The Earl of *Abingdon* rose, and addressed himself to the House as follows:

The Earl of Abingdon.

"My Lords,

"If I did not perceive, as I do, the sense of the bill now under the contemplation of your Lordships, to be the sense not only of the House, but of the nation at large, the confidence which I have in the political wisdom of my noble friend (the Earl of Shelburne) under whose administration the bill has made its appearance, would be a sufficient motive with me to yield up my own opinions, whatever they may be, to his. And therefore, my Lords, your Lordships will not suppose that I rise to offer any thing upon the question now before you, that may be considered in the light of opposition to this bill, or that may have the smallest tendency to impede, in any degree, its progress through the House.

"But my Lords, standing in the situation in which I do, somewhat pledged to your Lordships upon the ground of this bill, I trust I may hope for the indulgence of the House, should I trouble your Lordships with a very few words in explanation of my conduct.

"At the conclusion of the last session of Parliament, I had the honour, as your Lordships may remember, to state my ideas to the House, as to the then relative situation of Ireland to this country. I saw, and I saw with pleasure, that what Ireland had required of England, had been in all its extent acquiesced in by his Majesty's Ministers. I saw, an act of Parliament no less offensive to the constitution of this country, than subversive of the right of Ireland, repealed and expunged from our statute books. But I saw too my Lords, that although this was done at the instance and requisition of both Houses of Parliament in Ireland, that when done, Ireland was not satisfied with it; and seeing this, my Lords, as the true friend to both countries, I endeavoured to draw that line of relation betwixt the two, which the interest of each seemed to call for and require, and in which I felt myself upheld, maintained and supported by the constitution of England.

" My Lords, what this line is, and how it was to be drawn, was contained in a bill, which, when the matter was agitated, I took the liberty of proposing to your Lordships, and being intended rather as matter of speculation than as a proposition at that time to be carried into execution, was a part of my speech read to your Lordships; your Lordships, therefore, being already possessed of the plan which I had adopted, and not meaning, as I have said, to give any opposition to the bill now before us, (leaving it to futurity to determine upon the eligibility of the two plans, as they respect the best interest of both kingdoms) I shall not trouble the House with a recapitulation of what I have already suggested to your Lordships upon this subject. But, my Lords, as it may be expected of me, so I cannot help briefly restating to your Lordships, what this proposed line of relation between the two kingdoms was, and what the grounds were, upon which the proposition itself was built.

" In considering this subject, my Lords, two things occurred to my observation; the one, the right which this country had exercised of internal legislation over Ireland, the other the right which this country possessed of external legislation over Ireland, so far as that legislation regarded the navigation and commerce of that kingdom.

" With respect to the first right, my Lords, the right of internal legislation, it was clear to me that no right so manifestly in the teeth of the constitution of this country, however it had been exercised, could on principle, be upheld and maintained; and in arguing this point, I wanted neither reason nor authority to support me. I found, and I found it to be a fundamental principle of the constitution, that legislation and representation were inseparable, and that therefore inasmuch as Ireland was not represented in the British Parliament, Ireland could not be subject to the legislature of the British Parliament; and in this conclusion, even in point of fact, I found myself sufficiently justified by authority; for, in my researches upon this question, it was evident to me, that the ground upon which this right had been exercised, was manifestly that of Ireland being represented in the British Parliament, though that representation was rather matter of pretence than of reality; the pretence being, as my Lord Coke and many others have laid it down, that the " Kings of England sometimes calling their nobles of Ireland to come to their Parliaments,

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Ireland was insomuch represented; and being so represented by special words, the Parliament of England might bind the subjects of Ireland." This being the ground of the internal legislation of the Parliament of England over Ireland, as it was at no time a sufficient ground for the exercise of this right, and as I saw the right, although exercised, continually controverted, and called in question; so when even the pretence itself did not exist, I mean of the Kings of England calling their nobles of Ireland to come to their Parliamants, there could be no colour whatever to maintain the right; I did not hesitate to approve of the repeal of the declaratory law of the 6th of George I. by which Ireland was bound, and to pronounce that the exercise of that right was usurpation, and ought to be abandoned.

"But, my Lords, of the other right, that of external legislation, so far as it respected the navigation and commerce of that kingdom, my opinion and judgment were the very reverse of this; and upon grounds, my Lords, no less founded on reason and authority, than on policy, and the mutual interest of both countries; even if the right had not existed: for in such a concern there must be a headship, and if there be not, no connection can subsist, but actual separation must ensue; and more than this I need not labour the ground of reason upon which this proposition stands, for the proposition speaks for itself: that the existence of this country depends upon its dominion at sea, and that the dominion at sea depends upon the due cultivation and regulation of its commerce in all its branches, are topics which I had before taken notice of, and are too well known to your Lordships to be insisted upon here. Of the authority then on which this right of external legislation rested, it remains for me to trouble your Lordships with a few words, and here I find myself no less founded in the maintenance of this right, than I was justified in the condemnation of the other.

"My Lords, this right being founded on the right to the dominion of the sea, was a common law right, that is, it was a fundamental right, and coeval with the constitution of this country; and being so, I find it not only laid down *passim* in all our common law books, but as declaratory of the right as common law so expressed in the statute of the 20th of Hen. VI. chap 9, to wit:

"Le Parliament d'Engleterre ne lia *Ireland* quoad *Terras suas*, quar ils ont Parliament la, mes il poient eux

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lier quant al choses transitory, comme eskipper de Lane, ou merchandize, al intent de ceo carrier al auter lieu *ultra mare*;" that is,

'The Parliament of England cannot bind Ireland, as to their lands, for they have a Parliament there; but they may bind them as to things transitory, as the shipping of wool, or merchandize, to the intent to carry it to another place beyond sea.' an authority, my Lords, which as your Lordships perceive, whilst it maintains the right of external legislation *quoad* the commerce of Ireland, it defeats the right of internal legislation for the reason given, namely, "for that they have a Parliament there."

"And now, my Lords, under the circumstances of this business, I need not press this matter farther on your Lordship's minds. What I have said was that I might act in consistency with my own principles, and having done this, I have satisfied my conscience, and I have done.

"But, my Lords, I cannot sit down without throwing out a few hints to your Lordships as to the policy of Ireland in pressing, for I will not now speak of the policy of this country in granting the requisition, which the bill now before your Lordships, proposes.

"My Lords, the bill now before your Lordships proposes that the Parliament of England shall have no authority over Ireland in any case whatsoever, either internal or external: but, my Lords, are your Lordships aware, is Ireland aware, to what this leads? Do the people of Ireland wish to remain subjects of the Crown of England, I say of the Crown of England, my Lords? for if they do, the moment this bill passes, they are no longer so—I say, no longer so. For, my Lords, the subjects of the Crown of England must be, and are, of continual necessity, under the legislative authority of this country. My Lords, the Crown itself is under the legislative authority of this country, and of course those who are dependent upon this Crown, so far as the constitution admits of it, must be so too. That they may be subjects of the King of England, is true, and so they will be; and so are the people of Hanover subjects of the King of England: but does Ireland wish to be upon the footing of Hanover with this country? and yet the case must and will be so. Suppose an act of Parliament was to pass restraining the prerogative of the Crown, in any given instance with respect to Ireland, would not Ireland be bound by that act of Parliament? Must not Ireland

submit

submit to that act of Parliament? For how could Ireland oppose or resist it but by an act of rebellion, if the people of Ireland be the subjects of the Crown of England, and the Crown of England be subject to the legislation of England? Do the people of Ireland wish to have seats in the British Parliaments? My Lords, this bill incapacitates them from being members of the British legislature. It is by acts of Parliament that the right of sitting in the two Houses of Parliament is regulated, and the people of Ireland, not being to be bound by acts of Parliament, they are insomuch aliens, quoad their claim to this right. My Lords, the moment this act passes, the Irish are no longer our fellow subjects, that is to say, if this act of Parliament be of any force, for notwithstanding the boasted omnipotency of Parliament, an act of Parliament cannot destroy a fundamental right of the constitution. If the right be in us, that right is delegated to us, and no delegated right is, or can be in its nature transferable. This is sound constitutional doctrine, my Lords, and which cannot be opposed. Besides, at best this is but an act of Parliament, and all acts of Parliament are repealable; and then the right reverts to its fundamental source. Let the Irish remember that the sixth of George the first has been repealed. But now, my Lords, let me ask Ireland a question or two. Does Ireland propose, that the navy of England should protect her commerce, and that that commerce should not by the regulations of England, be made subservient to that navy? Or does Ireland mean to equip a navy of her own? For if so, here competition begins, and in what competition must end we know. Does Ireland consult her interest in this? I think not, my Lords, and of this we have already had a proof. No sooner was the power of regulating the commerce of Great Britain, placed exclusively in the Parliament of Ireland, than a political convulsion immediately succeeded. What happened between Ireland and the court of Portugal is fresh in your Lordships minds. My Lords, I have done, begging pardon of your Lordships, for having so long trespassed on the time and patience of the House; but I could not see a bill of this nature pass, without my saying what I have done upon the occasion."

The D. of Richmond.

The Duke of *Richmond* said, that in many respects he must agree with the noble Earl, he must do him the justice to say, that he never heard a series of arguments better digested — though he was not perfectly agreed with the noble Earl in all

all his points. That legiſlation muſt go with repreſentation was the clear and indiſputable doctrine of the Britiſh conſtitution, and that for which he ſhould always declare himſelf a firm advocate. The noble Lord had ſaid, he was an enemy to the idea of the Parliament of England aſſuming the power to exerciſe internal legiſlation over Ireland, and that ſuch an exerciſe of power was not more offenſive to the conſtitution of England, than ſubverſive of the rights of Ireland. He would go farther: He was ready to aſſert and maintain, that the Parliament of England had no right to exerciſe external legiſlation over Ireland; and when he went thus far, he felt himſelf juſtified in the extent of his aſſertion, by a conviction that no country had a right to legiſlate for another, either internally or externally, unleſs that other country choſe to ſubmit to ſuch legiſlation. In the caſe of Ireland, he was of opinion, that her deſiring to be freed from the legiſlation of the Britiſh Parliament, was an ample and ſufficient reaſon for complying with her requiſition in the fulleſt manner. He was ready to allow her to be as free as her utmoſt wiſhes could look for; but having ſatisfied Ireland, every man muſt ſee, that England could not be ſatisfied; ſomething more muſt be done to cement the union and connection of both countries. Like men equally free and independent, they might meet candidly and fairly on this topic, and talk upon it without reſerve, each having the ſame end in view, the formation of a ſyſtem calculated to promote their mutual intereſts. In order to ſhew the neceſſity, that prompted him to urge this reaſoning, the Duke deſired that the Clerk might read the two reſolutions of the Houſe, on the 17th of May laſt, reſpecting Ireland. The Clerk read them as follow:

1. "That it is the opinion of this Houſe, that the act of the 6th of George I. entitled an act for the better ſecuring the dependency of Ireland upon the Crown of Great Britain ought to be repealed."

2. "That it is the opinion of this Houſe, that it is indiſpenſible to the intereſts and happineſs of both kingdoms, that the connection between them ſhould be eſtabliſhed by mutual conſent, upon a ſolid and permanent footing; and that an humble addreſs be preſented to his Majeſty, that his Majeſty will be graciouſly pleaſed to take ſuch meaſures as his Majeſty in his royal wiſdom ſhall think moſt conductive to that important end."

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The Duke observed, that in consequence of these Resolutions the act of the 6th of George the first had been repealed. By which, as had been well explained by the noble Lord near him, the more immediate cause of complaint on the part of Ireland had been removed, and the exercise of internal legislation over Ireland solemnly abandoned by the Parliament of England. There yet remained, however, the second resolution to be fulfilled; a resolution of infinite importance to Great Britain, since upon the adopting and carrying into execution wise and politic measures, with a view to enforce that resolution, depended the interests of both countries, as far as those interests were affected by the one being connected with the other. Without meaning to oppose the reading of the present bill, there were circumstances relating to it which materially called for their Lordships consideration. The bill taken separately as the whole of a measure and system, would be dangerous to England, and what they could not agree to sit under, since it would in fact separate Ireland from every branch of this country except the Crown, and many most alarming inconveniences would result from such a separation of interests. It was fit that their Lordships should consider these things, not as objections to the bill itself, but as reasons for their enquiring whether this was to be adopted by the King's Ministers as a part of a large and broad system on which the future connection between the two countries was to be founded. Their Lordships would please to consider, that not only in regard to peace and war, in regard to rivalship in commerce, in regard to ecclesiastical matters, the separation created by the present bill would be materially alarming to England. Suppose that England should have occasion to go to war, and Ireland should find herself disposed to remain at peace—should refuse to give aid, and furnish her quotas to the cause of the empire—suppose that in negociations for peace the terms agreed on by the English Ministers should be objected to by the Irish—suppose that in regulations and treaties of commerce with foreign states the Irish should contend with the English—in these and a thousand other possible suppositions, was it possible that this total separation could be submitted to by the people of England? But there were other most important dangers to be apprehended. In Ireland the proportion of Roman Catholics to the Protestants was calculated to be as seven to one—some said as four to one—some as five to one—but the

common

common and generally received opinion was as seven to one. The Roman Catholics had now no share in the legislature, the government, or the defence of the country; but in the extension of that spirit of liberality, which was the ornament of the human mind, this claim to be admitted to an equal participation of the rights of citizens should be admitted, if they should be suffered to make a part of the military establishments, as well as of the legislature of Ireland, and we were to have upon the throne of England a prince tainted with the love of popery; if old religious feuds should be renewed between the subject and the Crown, might we not expect that the Crown of England would then be able to call an Irish army of Roman Catholics into the field, over whom the legislature of England could have no power, and no influence? This was not a wild chimera; for as he heard the Catholics of Ireland were as seven to one—grant them the privileges of Protestant subjects, and they instantly possess the predominant voice in the Irish legislature. A British King, in such case, with popish propensities, has an Irish parliament devoted to his views, and an Irish army to execute his purposes.—In Ireland too the Dissenters were no inconsiderable body, and in this as well as in the other case, the influence of the British Crown might be very improperly and unconstitutionally augmented, because he might have power without the consent of the people of England.

These were reasons that made it indispensibly necessary for their Lordships to enquire whether this was to be followed by any other measure; and whether the present Ministers had adopted it as part of a system upon which the mutual connection of the two countries was to be established. This was particularly necessary to be known, on account of the very unaccountable and opposite mixture of opinion and principle that existed in the cabinet at this time. It was impossible that he, or that any man could rationally trust to the measures of an administration where the principles were so opposite and contradictory. To the one part of that administration he looked with reverence and respect; one part of it he venerated for their integrity, their talents, their principles, and their virtue; he had the experience of past time to guide him in his approbation of them. The other part of that administration he could never support: their former conduct, their measures, their system, and their principles he had opposed, from the heartfelt conviction that they

they were pursuing a plan which must ruin their country. From such men he could expect no good, and to such men he could give no support. There was in high office, as their Lordships knew, a noble Lord who had long been in the practice of pursuing measures, which he could not but consider, from the unfortunate events they had produced, as the causes of all our national calamities. He had a few days since declared a wish, that the Secretary of State was in that House; his reason was, his desire to say that in the presence of the noble Lord (he declared he meant Lord North) which his duty prompted him to state concerning that noble Lord's conduct as a Minister. That conduct had, as their Lordships had often heard him declare, convinced him that the noble Lord's principles were such as were irreconcileable with the interests of the people. Was he to think of the noble Lord now more favourably than he had thought before, when in the very moment of the junction, the noble Lord, so far from receding from or altering any one of his political opinions, had declared in the House of Commons, that he had not departed from his principles! Let their Lordships think a moment upon the nature of that declaration; let them consider the former conduct of the noble Lord in question, respecting Ireland, and then let them ask themselves if he was not warranted in desiring to have it explicitly said, whether that noble Lord was willing and ready to carry the second resolution into practice? The Duke then recited what he conceived to have been Lord North's conduct respecting Ireland, and endeavoured to deduce proofs from the recital, that the noble Lord had been the cause of all the uneasiness and oppression felt and complained of by Ireland, and of her taking up arms to do herself justice, when she found the British Parliament would do nothing for her. His Grace stated the frequent attempts made to relieve her trade in trifling particulars, all of which were defeated by the opposition of local interests. He mentioned the bill allowing her to import her own sugars, which he said was ultimately defeated by the interposition of Lord North, on a division of 64 to 58; he afterwards stated the declaration of a noble Earl at that time at the head of his Majesty's councils, [Earl Gower] at the end of the session of 1779, (that the address then moved respecting Ireland by the Marquis of Rockingham, should not be opposed, if the censure of Ministers were taken out) the accompanying promise that something for the relief of Ireland should be thought of against the next session,

fion, and the noble Earl's fubfequent refignation of his office, and his informing the Houfe when Parliament met again, that his reafon for having quitted his Majefty's Councils was, "becaufe the promife he had ventured to make to their Lordfhips had not been fulfilled, and nothing had been done for Ireland." The Duke dwelt on thefe particulars for fome time, and faid, he could not help being induced to predict of the future, from his knowledge of the paft; at any rate, his doubts were fuch, that unlefs he heard, from authority, that the noble Lord, to whom he had alluded, had feen his error, and changed his opinion, and that he was really and fincerely defirous of complying with the fecond refolution, he fhould continue to think, that there was no intention to do any thing more for Ireland, but that fhe was to be left as this Bill left her; which, as the noble Earl near him had faid, would feparate her from Great Britain, and place Ireland in as fmall a degree of connection with this country as Hanover was in at prefent. Should that be the cafe, many of the important confiderations alluded to by the noble Earl would then certainly arife, and the confequences, their Lordfhips muft forefee, would be infinitely ferious to Great Britain. His Grace declared, he had much rather have faid what the Houfe had heard, in the prefence of the noble Lord, whofe former conduct he had fpoken fo much of. He wondered, as it was known that the noble Lord was to be called to take his feat in that Houfe, what could occafion the delay of his coming there. If common report were to be relied on, the reafon was a very fingular one; report faid, the noble Lord ftaid in the other Houfe merely for the purpofe of fighting his brother Secretary of State, and that they were to fight upon a queftion of the very firft importance, viz. the intended reform of Parliament. If this report were true, and the noble Lord continued in the Houfe of Commons, merely till a motion, of which an honourable gentleman had given notice, came on, what opinion could their Lordfhips entertain of an adminiftration fo oppofite on fuch an important queftion, and in order to defeat which the noble Lord ftaid in the other Houfe? What he had delivered would ferve fufficiently to fhew that a part of the prefent cabinet had uniformly objected to every claim of the Irifh, until their claims were fupported by 40,0000 men in arms; and he ftated it as a ground of his jealoufy now. He wifhed to know which of the two fyftems was to prevail. What was to be the fruit of this heterogeneous mixture? It was not

not enough for him to be told that there was four to three in the cabinet, and that on this question this party would prevail, and on that question that party. He knew well that in a cabinet so composed, the minority must become the majority when they pleased; for they had this argument to use, and which they would use with effect: if you do not agree to this we will recede, and without us you have not strength in Parliament to go on. Could it be seriously required from him, or any man, to give his support to an administration so constituted? Could any man be so irrational as to expect good from such a Ministry? Could it be imagined that on this, or any other of the important bills to come before them, they could decide without knowing what was to be done? He therefore took the liberty of asking from the noble Duke who was at the head of this promising administration, not what was to be his system, but whether or not it was the design of the cabinet to follow up this bill with others; and whether this was only a part, or the whole of their system with regard to the settlement of the relative situation of the two kingdoms?

The Duke of Portland

The Duke of *Portland* said, that it would be a very improper thing for him to divulge prematurely the purposes of the King's Ministers; and he confessed he did not expect to have been questioned on a point so unseasonable and extraneous as the future measures of the cabinet with respect either to Ireland, or any other part of the King's dominions. He flattered himself that from the uniform tenor of his life, he should at least have received so much confidence from their Lordships as to protect him from the suspicion of making a part of any Ministry that should act on principles opposite to those which he had always professed, and up to which he had always acted. He assured their Lordships, that while he continued in the station which he had the honour then to fill in his Majesty's councils, he should abide and act by those principles which had always guided him; and whenever he found that those principles were not to be pursued, he should certainly retire from his post. He had flattered himself that having acted in every instance of his life with integrity, he should have met the confidence that was indispensibly necessary for the conduct of public affairs, and that they would have given him credit for being desirous of doing his duty to the best of his judgment, in whatever public station he might be placed, or, at least, that they would have waited patiently till some instance of his failure in discharge of

his duty made it necessary to call him to a public account for his conduct. With regard to the present bill, it was fully his opinion that it should be passed into a law: what had already been done, as well as what he understood to be the opinion of Ireland, made it necessary. When he had the honour to be in Ireland, he acted by what he collected to be the sense of the country, and the system that was pursued in the repeal of the 6th of George II. certainly came up to the wishes and ideas of the people, if their wishes and ideas were conveyed by their Parliament, for their approbation was sanctified by almost unanimity. With regard to the present bill, a particular event had made it necessary. Their Lordships well knew what the event was; he concurred in the bill, not merely because he thought it adapted to the occasion which required it, but because he had learnt from conversations he had held with many respectable men from the other side of the water, as well as many respectable men here, that the passing of such a bill would be a circumstance agreeable to Ireland. In regard to any future measures to be pursued relative to that country, there was no occasion for going into a discussion of them at that time. He always had been, and always should be ready, to do every thing in his power to cement the connection between Great Britain and Ireland, on terms of mutual affection and mutual interest. He therefore most heartily concurred in the present bill; but he submitted to the candour of the House whether it was fair to suspect until there was an appearance of guilt, and whether it was right to call upon him for official communications of future measures or designs. Beside, their Lordships would recollect how very short the time was since they had come into office, and in fairness they could not be expected to be fully informed on the various topics in the offices.

The D. of Richmond. The Duke of *Richmond* begged that he might not be understood to have hinted or breathed the most distant suspicion of his Grace, or of his particular and immediate friends in the cabinet. The very reason which his Grace had given for demanding the confidence of Parliament, the experience of former integrity and rectitude, was the exact reason why he must withhold confidence from some of his Grace's colleagues. He had the experience of the noble Duke's integrity, and therefore he had confidence. He had the experience of Lord North's bad principles, and therefore he withheld confidence. The question which he asked was fair, as

well as necessary. The noble Duke had not thought proper to answer it. There were other Ministers present; some of those whom he doubted, and he wished fairly to call upon them to say, which of the two parties in the cabinet was to give way; which of the two was to abandon former principles on this important point, and what was to be the system pursued now; and whether the resolutions of the 17th of May last were to be carried into effect?

Lord Thurlow.

Lord *Thurlow* professed that he could not see any thing unseasonable or improper in the question which the noble Duke had asked. It was applicable to the occasion, and he thought that without being satisfied on the point, their Lordships could not fairly be called to the decision of the present question. What was the question? Was the present bill the whole or only the part of a system? On what grounds was it to be adopted by the present Ministers? For what purpose was it to be passed? To what end was it to be applied? In all this was there any thing which, in the smallest degree, could give embarrassment to Ministers in answering? But what was the answer of the noble Duke? He looked round for confidence, and claimed it from the tenor of his past life. He professed he was in doubt about the meaning of this word confidence. Did it mean that his Grace had no farther plan in view; that the cabinet had no system in contemplation, and that they had just taken this bill up without enquiry, without discussion, without meaning to do any thing more, or caring whether this was enough? Or did it mean that they had an extensive scheme in view, but Parliament must trust to their good character until the proper day should come for making it known? He begged to have the English of the word confidence, that he might know if it was only another word for having no plan of measures; at any rate, he said, he knew of no confidence that could be placed in an untried administration. It was however very requisite that their Lordships should know on what grounds this measure was taken up, and for what end it was to be carried into effect. The noble Duke who had asked the question had given very forcible reasons for his doubts, namely, the well-known contradiction of sentiment that there was on this very question in the cabinet. The noble Duke had likewise observed, that he, and his colleagues, had been so short a space in office, that they could not find time to look over the papers to see what was necessary to be done; but surely neither the noble Duke, nor any Lord in that House, who was ac-

quainted with the office, would say that the time the bill had been delayed from Friday to Monday, was not sufficient to have examined every paper that could be there on the subject; and what made this appear more singular, was, that many of those papers must have come from the noble Duke himself, and a noble Earl his now colleague in administration; would not their Lordships then suppose that no men could have been fixed on so capable of speedily determining what was expected, and what ought to be done to secure a lasting and permanent connection with our sister kingdom; and yet these men, according to their own accounts, were the most improper and incapable of all persons living. By their manner they would almost lead you to conclude they were entirely ignorant of the contents of the bill, and suffered it to pass merely because it was brought in by their predecessors; they had nothing at present to propose instead of it, and should it not turn out to be proper, why the late administration, and not they, would bear the blame; but this did not strike him to be the case; he believed them to be thoroughly acquainted with the contents of the bill; and if they meant it to be the conclusion of their proceedings, he did not doubt, if their Lordships would allow him a little time, but he could so alter the wordiug of it as totally to effect the separation of the two kingdoms for ever. He said he could but lament the frequent changes which revolutions in politics in this kingdom made in the Lords-Lieutenants of that country; the people were scarcely settled with a representative of the crown, before intelligence arrived that they were to part with him, and that another was appointed in his stead; this circumstance was sufficient to make them have a very poor opinion of the councils of this country, and that we were guided by caprice, whim, and unsteadiness; the present nobleman who filled that high office, by his generosity, his large connections in both countries, his affability and integrity, had won their good opinion in a short time; and this was no sooner done than their favourite was to be taken from them: he wished, however, the noble Lords now in their places would be a little more explicit, and give the House some information what line they meant to pursue.

Lord Loughborough.

Lord *Loughborough* said, that on this question he had no peculiar means of acquiring information with respect to the designs of the cabinet. He had no other information than as a Lord of Parliament, and as such, he must declare freely,

ly, that he thought the present conversation, for it was not a debate, on the merits of the bill extremely irregular, if not disorderly. Not a word was started in objection to the bill as to itself; but Ministers were called upon to divulge their future system, and to declare what were to be their opinions and conduct on matters that were not before the House. He did not think this perfectly consistent with fairness, nor was it the kind of opposition which any Ministry would have reason to dread. The present Ministers had been for so short a time in place, and had come into power at a moment of such complicated difficulty, that it was not reasonable nor fair to call upon them for the disclosure of systems which they could not be imagined, with all the industry that could fall to the share of men, as yet to have digested and matured. But, above all, to be questioned on the grounds and meaning of this bill, was singularly curious. What was this bill? It was a bill introduced into another House by another Ministry——and that Ministry who were the authors of the bill, who knew best what were its grounds and tendencies, came forward and asked for the reasons upon which it was adopted. If it was necessary that their Lordships should be put into full possession of the motives, the views, and the system to which this bill was intended to apply, the persons who could best give that information were the Ministers with whom it originated. He had the happiness to have in his eye the noble Lord who first moved for the bill in the other House, and who conducted it through all its stages there. That noble Lord could give all the information that was required, and this surely would be more natural, as well as more candid, than to call for the meaning and sense of the bill from men who had hardly been seated in office, who had not had time to go through the correspondence in the office, and who had not had time to frame, discuss, and determine on any system. But the former Ministry had introduced bills, and the present Ministry were to find sense and reasons for them. They had all heard, and some of them when at school might have made use of the practice of desiring a companion to help them to sense and composition in an exercise; but who ever heard, even in the forms of Westminster and Eton, of school-boys being asked to find sense and grammar for an exercise, which was already delivered into the hands of the censor? The noble and learned Lord mentioned several members of the present cabinet, who were the well-known friends of Ireland, and from whom

whom it was not to be imagined that any thing would come hostile to her interests. In the mean time the bill would be read with unanimity; for not one syllable had been said against it; and surely it was time enough when future measures were proposed, to demand to know the system to which they tended. His Lordship observed, that the noble Duke had astonished him when he moved for the two resolutions of May last to be read: he could not conceive what use the noble Duke designed to make of them; at any rate it was impossible for him to have imagined, that the noble Duke meant to insist on the latter as an accusation against the noble Duke so lately placed at the head of his Majesty's government. Those resolutions had been proposed by a noble Lord, when the noble Lord was in high office; he had afterwards been called to the superintendancy of administration, and had every possible means of obtaining the fullest information upon the subject. The resolutions had been moved more than ten months ago; if therefore there was any cause for blame on account of nothing having been done, in consequence of the second resolution, surely that blame was rather imputable to those, who had full ten months time to consider of what was proper to be done, than to the noble Duke who had scarcely been as many days in office, and who from the acknowledged quantity of urgent business on his hands, could hardly be supposed to have been able to have dedicated as many hours,—he had almost said, as many minutes, to the consideration of the subject. With regard to the confidence expected by the administration of the day, upon the topic of Ireland, his Lordship declared, they had a fair claim to that confidence, and ought not to be deemed untried men. Two of the members of the present cabinet had both been in high office in Ireland, and each of them had received the thanks and applause of the country for their public conduct, in terms the most honourable and expressive. There was in administration also, a noble Lord, whose high character, integrity, and abilities were universally known and acknowledged, and to whom Ireland had returned her most grateful acknowledgments, by repeated public addresses for his services, especially for his having granted her a free and equal trade, a circumstance of which the noble Duke had thought proper to take no notice. The noble and learned Lord had asked for the English of confidence. The noble Lord who had introduced this bill into the other House, would tell him the

the nature of the confidence that he had experienced. The journalists of the day would inform the House, that the noble Lord (Lord Sydney) had complained that words were likely to be misrepresented, and that therefore he wished little might be said on the subject. The consequence of which was, that no explanation of the bill was asked for—none given—and it passed without any enquiry about the system, of which it was a part—the measures that were to follow, or the consequences it was to produce. In this manner the newspaper reporters stated the bill to have been introduced, and such was the confidence of the House of Commons in the noble Lord near him, that admitting and feeling the necessity of the measure, they had read the bill a first and second time, and passed it without any farther explanation. In stating the matter thus, he was persuaded the journalists must have been egregiously mistaken, because if the doctrine of the noble and learned Lord was founded, the reverse must have been the fact. After expatiating on these, and a great variety of other points, applicable to the subject before the House, his Lordship concluded by far the most pointed and able speech of the day, with begging pardon of their Lordships for having taken up so much of their time with a speech, which, though from beginning to end it was disorderly and irrelevant, was not more so than the whole conversation had been, since no one Lord had said a single word upon the question before the House, viz. that the bill be committed. In the course of his speech, his Lordship termed all that had passed, a mere sprout of opposition, which had sprung up with the season, and had chosen to shew itself that day, but which, as far as regarded the bill before the House, he would venture to prophesy would neither become a promising nor a sturdy plant.

Lord Thurlow.

Lord *Thurlow* spoke again at some length, and contended, that he was not disorderly in taking the present opportunity of desiring to know the principle upon which the present bill was to be passed into a law. If it was adopted without a principle—if it was taken up on the authority of the predecessors of the present Ministers, without their forming any idea upon it, then it might well be said to resemble a schoolboy's task, and the former Ministers were to be considered as the prepositors of the present. But he could not brand them with such a suspicion. He knew their understandings and talents better than to believe them capable of adopting this or any bill without well weighing its view and tendency,

and without settling in their minds the object to which it was to be applied, and the means by which that object was to be obtained. With this belief he thought himself warranted in desiring to know what their system in the bill was; the second reading was the proper stage for making the stand, and he should, on all such occasions, lay in his claim to the same liberty. The noble and learned Lord commented on Lord Loughborough's argument, and endeavoured to turn the learned Lord's allusion to school practices into ridicule, declaring, that Ireland would scarcely think herself indebted to the noble and learned Lord for putting the bill under consideration, upon the footing of a Westminster exercise. He also ironically professed that in the little he had before said, he had not uttered any thing so seditious as a personal attack on any one member of the present administration. In answer to what Lord Loughborough had suggested of Lord Sydney's having introduced the bill originally into the House of Commons, without an ample explanation of the reasons, on which it was grounded, he declared he would not, on the authority of a newspaper, believe the fact. The late administration could not have acted so contemptibly. His Lordship said, the present administration might, for ought he knew, mean to remove one of the greatest men that ever came into office, from his situation in Ireland. The possibility of this circumstance alone made it highly necessary that the House should know, whether Ministers had any system with regard to Ireland or not. If they had not, they were mere school-boys, and ought not to hold the government half an hour. The noble Duke who had put the interrogation, had merely asked, do you mean to make this bill part of a plan you may adopt towards Ireland, or is this to be all you intend to do for that country? He had not asked what plan they meant to pursue, or for the least intimation of it, but simply whether they had any plan at all? In reply to which we are referred to the noble Lord, late in administration, and who introduced the bill for an explanation; perhaps, said his Lordship, they might wish to hear that plan declared, if so, he did not doubt but the noble Lord would oblige them with it.

Lord Visc. Townshend.

Lord Viscount *Townshend* said, it was not candid nor fair to demand from Ministers, at so early a period after their introduction to office, the system which they were to pursue with Ireland. This, at least, was evident; that if we meant to act a fair, a manly, and an honest part, the present

bill

bill was necessary, since it confirmed what was done in the last session, and none of those alarming evils were to be apprehended from it. The fluctuation of Irish opinions was easily to be accounted for. The incessant change of the government must naturally give rise to fresh jealousies and new opinions, and while this very great evil continued, it was impossible that we should expect to see our sister kingdom truly and permanently fixed in her system and sentiments. The noble Duke who desired to know what was to be the plan of the cabinet with respect to Ireland, did it, he said, because he could not trust a discordant Ministry. Had not that noble Duke, for several months, made a part of a Ministry as discordant and contradictory in their principles as the present? Had he not continued to act with men who differed from one another as widely as men could differ? Nay, had he not shewn how a man might proceed, who wished, without quitting his office, to avoid taking a share in particular measures? During the Ministry of the noble Duke, it had been seen that a Ministry, made up of discords, could act; and what was once, might be again. He entered into a retrospective view of the late parliamentary transactions of this country, with regard to Ireland. He mentioned the oppressions Ireland had long suffered, and the æra when she applied for redress. He recited what steps had been taken for her relief, antecedent to the present session, and said, by taking away the appellant jurisdiction from their Lordships, and vesting it in the House of Lords of Ireland, they had made the latter a House of Parliament, which it was not before. He reminded the House what they had by their own resolutions given Ireland to expect, and said he conceived that what their Lordships had to do at present was, to pass the bill before them, thereby to fulfil their engagements to Ireland, and convince that country, that they were sincere in their declarations, as stated in the two resolutions of the 17th of May last. His Lordship urged the necessity of their doing Ireland the fullest justice, and acting in the most unequivocal manner upon the present occasion. He declared it was his opinion, that for want of acting unequivocally on former occasions, all our misfortunes, including even the loss of America, had arisen; that what they felt in their own breasts should govern their public conduct, and the national honour, like the personal honour of their Lordships, be deemed sacred, and on no account to be violated. Public

credit depended on the public faith, the abandonment of the latter consequently must prove the ruin of the former.

The D. of Richmond.

The Duke of *Richmond* spoke in explanation and reply. With respect to his own conduct, he would fairly say, that he was never biassed by his office to lend his name to measures or men of whom he disapproved. He never could, nor would be influenced by such a motive. He did not go into the cabinet for some time, because he disapproved of certain conditions in the peace; and he retired from office, because he never could bring himself to support an administration of which those men made a part, whose mad and impolitic measures had well-nigh ruined the country. His Grace admitted, that something should have been done sooner respecting the second resolution of the 17th of May last, and that certainly ten months ought not to have been suffered to have elapsed, without some step or other having been taken on the subject. With regard to the compliments, which the noble and learned Lord had been so lavish in bestowing on the present administration, he declared that he never paid any regard to such sort of praise, unless it was accompanied with reasons to prove it had been merited; it was necessary therefore for the learned Lord to give some explanation of that part of his speech, if he expected it to have any weight in the consideration of their Lordships. His Grace once more urged the noble Lord in the green ribband to give the House some assurance of the intention of Lord North with respect to Ireland; and after talking for some time of the opposite principles of the members of the present Ministry, said, that he not only expected, but prayed for disunion in the cabinet; it would, in all probability, be the speedy means of destroying an unnatural coalition. He took notice of what fell from Lord Loughborough, and said, it was curious to see that noble Lord, who had distinguished himself a twelvemonth ago, by being the only person in that House who stood up to oppose the independency of the Irish Parliament, now become the advocate of the present bill. He persisted in his right to call for the explanation which he had desired, and said, that neither what the noble Lord had said now in his equity character, nor what he had said in his law capacity, had made him sensible that he was wrong.

Ld. Loughborough.

Lord *Loughborough* said, that he was very much embarrassed, since he had not the resources of some men when in difficulty, as it had never been a part of his conduct in life to make apologies or explanations. What he had said last

year,

year, he considered himself responsible for, and he would maintain what he had said. It did not contradict what he said now. He said now, that the bill of last year not having given the satisfaction it was intended to give, the present bill was necessary to compleat that measure; and in the mean time we had no right to call on Ministers for future designs. His Lordship denied that he had paid any compliments to the present administration; he had barely stated the history of undeniable facts. He then pointed out the particular occasions on which Ireland had addressed Lord Carlisle, the Duke of Portland, and Lord North, in terms of gratitude and applause for their conduct towards that country. After pointedly adverting to several other matters that had fallen from Lord Thurlow, and the Dukes of Richmond and Chandos, Lord Loughborough remarked, that the noble Duke who spoke last had put up a prayer for disunion in the cabinet: that event, his Lordship said, was not, he believed, very likely to happen; nor did he think the wish for its happening lay very near the noble Duke's heart; if it had, the noble Duke would have continued in office, as the surest means of accomplishing what he said he prayed for.

Duke of Richmond.

The Duke of *Richmond* said, if the noble and learned Lord had meant no more, when he passed his panegyric on the present administration, than to recite certain scraps of history, to be found in an old newspaper, neither the noble Lords in question, nor the House, would probably think themselves much obliged to him. With regard to his continuing in office, he did not comprehend the learned Lord's meaning. He did assure him again his office was no object whatever with him, nor had it at any time influenced his conduct in the smallest degree.

Duke of Chandos.

The Duke of *Chandos* vehemently attacked the present Ministers for the steps which they had taken to seat themselves in office. Royalty had been outraged by preremptory conditions; and they had in fact seized on the high stations of government by force. He particularly arraigned the conduct of Lord North, and said, that not being able to get again upon the coach-box of state, he had been content to get up behind. He wished the noble Lord who was to be brought into that House, had taken his seat there, that he might have had an opportunity of stating, in his presence, those parts of his former conduct as a Minister, which rendered it impossible for him to lend his support to an administration, in which the noble Lord had any

share.

share. His grace having said this, went into a detail of the conduct of the noble Lord respecting Ireland, in the year 1779 and 1780, and mentioned the famous declaration of Lord Gower, on his resigning his office of Lord President of the Council, so much to his own honour and the satisfaction of his country. He next stated, what he had seen in Ireland, respecting the arming of the people, and charged Lord North with having induced his Majesty to strike a gentleman, of the first abilities, and the highest character, off the lists of the Privy Council of both kingdoms, and to put another upon them, by no means so well entitled to that distinction. Before he concluded, his Grace asserted, that his Majesty's closet had been assailed and taken by force; he repeated the words "by force," and declared he could bring proof of his assertion, and that parties fought now for the loaves and fishes only. He said, such had been the struggle of the present Ministers to provide for their dependents, that they had torn from about the person of the sovereign all his old friends and acquaintance. The Duke passed a very high compliment on the late Lord Chancellor, declaring him to have been the ablest man, and the greatest character, that ever filled the elevated and important office, which the noble and learned Lord had lately been forced to quit. His Grace dwelt some time on Lord Thurlow's praise, and after describing his weight in that House, his independence of character, and the confidence with which he was looked up to by all ranks of people, said, a better proof of his distinguished talents and integrity could not be desired, than the fact in evidence before the House, viz. that on the noble and learned Lord's resigning the seals, they were obliged to be put in commission, no individual having been thought qualified to be his successor.

The Earl of Carlisle.

The Earl of *Carlisle* reprobated the use of the word *force*, when applied to the measures by which the present Ministry had come into power. His Lordship declared, he knew nothing of any such circumstance, nor did he understand what was meant by force, unless refusing to support an administration, who, when they had it very much in their power to do otherwise, had terminated the war in so awkward a manner, that they had left a sting in the bosom of every man, not destitute of humanity, could be termed force. If that was force, he for one pleaded guilty; but as to any the slightest personal disrespect to the person of the first magistrate, he denied that any had been offered, and he trusted

their

their Lordships would not impute such a charge to the Ministers on the solitary assertion of an individual, however high and respectable his rank might be. No man could have a greater veneration for Majesty than himself; and surely it was not forcing the Crown, when men agreed in disapproving of a negociation for peace in which there were conditions that made the hearts of feeling men shudder.

The Earl of Radnor.

The Earl of *Radnor* declared, he had no intention to have taken part in the debate of the day, he now rose merely to rescue what had fallen from the noble Duke [Duke of Chandos] relative to the closet of the Sovereign having been assailed, and taken by force, from the imputation of its being the solitary assertion of an individual. His Lordship declared, he verily believed such insults had been offered to his Majesty as our free constitution by no means warranted. He said the people were too affectionate and too loyal to their Sovereign to have suffered his royal mind to have been vexed, and harrassed by rude and improper demands. They would have stood by their prince in spite of any faction, or any party however powerful, and have shewn by their zeal and attachment, that a King, who reigns in the hearts of his subjects, will be supported by them under any misfortunes, either foreign or domestic, and protected equally from the insults of foreign enemies, and of his own subjects. His Lordship spoke very handsomely of the Earl of Shelburne, who had been driven from his office by a vote of the House of Commons. He said, that noble Earl stood ready to meet the judgment of his country; but though the House of Commons had declared the peace inadequate, they dared not enforce their vote, and institute an enquiry, with a view to censure and punish the person who made the peace.

The Marquis of Carmathen.

The Marquis of *Carmarthen* said, that as these very Ministers, who had so pointedly condemned every article of the preliminaries, were yet to adopt them as the ground of the definitive treaty, surely it were wise to say as little about them as possible. The noble and learned Lord, who, among others, now held the seals, had declared that one of the articles was illegal; then how could he put the Great Seal of England to an article which was contrary to law?

The Earl of Carlisle.

The Earl of *Carlisle* begged to be understood. He said that they had agreed in reprobating a measure at which the hearts of feeling men must shudder. Men must know, that he meant the abandoning of our friends in America; but in the preliminary articles, the national faith being pledged,

his

his Majesty's Ministers would certainly think it their duty to conclude the definitive treaties.

The Marquis of Carmarthen.

The Marquis of *Carmarthen* begged pardon for having misunderstood the noble Earl. His Lordship then remarked, that Lord Loughborough had, on a former occasion, declared a particular article of the peace illegal; how then would he reconcile that argument to his conscience, when it became his duty to put the Great Seal to the definitive treaty? His Lordship said, the present administration had succeeded in their purpose of driving the late Ministers from their posts; he conjured them, therefore, to rest contented with their success, and not endanger the future repose and safety of the country, by any ill-timed harsh expressions on a peace which the King had concluded, and which must be compleated.

After some few words between the Duke of Richmond, Lord Loughborough, and Lord Thurlow, to the same points exactly as they have already spoken on, Lord Mansfield put the question, that the bill be committed, which was agreed to without a dissenting voice.

April 15.

After the witnesses had been heard according to an order for their attendance for that purpose, the House resolved itself into a committee on the Bayntun Divorce bill.

Lord Thurlow.

Lord *Thurlow* thereupon took a review of the proceedings. His Lordship first stated the prospect of felicity which presented itself to the parties on their marriage. It was a marriage of love, in which a parity of age, rank, and fortune, combined to render the state happy and comfortable. He paid the highest compliments to the amiable qualities of Mr. Bayntun, against whom there had not appeared a tittle of evidence (as in many late cases that came before the House of a similar nature, there had) of unkindness, or other impropriety of conduct on the part of the husband, to warrant the infamy of the wife in her deviation from the paths of virtue and affection. The woman had acted wantonly, wickedly, and basely. Still however it appeared to him, that there had been great indiscretion on the part of the husband in the mode he had taken to obtain the divorce. His Lordship did not mean that there was any criminal collusion in the business; but there had been ignorantly a sort of concerted plan formed for it, not indeed before the acts of adultery had been committed, but afterwards. This, however, was

was a circumstance that ought not to be passed over in silence. Collusion should not only be avoided, but even the suspicion of collusion, and that could never be effectually done but by the parties keeping at arms length as it were — at proper distance during the time they were seeking that separation which vice had rendered requisite. It was very apparent, according to the testimony of Johnson, and of the two clergymen, (the brothers of Mr. Bayntun) that from the moment Lady Maria had confessed her guilt, the husband was satisfied with, and strongly recommended a marriage to the adulterer and adulteress on the event of a divorce; and that, in consequence of this compromise, the woman retired immediately from the house of the husband, and resided constantly since with her paramour. This conduct of the husband, doubtless, arose from his tenderness to the unfortunate woman who had dishonoured him, from that weakness which formed a part of the amiable character which all the world gave him: but still it was improper, for the reasons before mentioned. And, upon the whole of the circumstances of this very singular case, his Lordship was more than ever confirmed in his opinion, that there ought to be some certain rule laid down for the decision of all cases of adultery whatsoever, and that the present mode of proceeding was utterly inadequate to the end. He would be therefore extremely happy to see a law framed to separate the very incongruous characters in which their Lordships then appeared at once as judges and legislators Till then, however, there was nothing which the House should be more on their guard against than collusion, whether before or after the fact. In the present instance, there did not appear to him to be any artful collusion; yet, although the concert of the present parties was clearly the result of ignorance, so much might not be said in matters of a like nature, which might be brought before their Lordships in future; and though, for the reason he now assigned, he would not set his face against the present bill, he would yet have it to go abroad that it was the sense of the House that all circumstances of intercourse or collusion between the parties would be as much discountenanced by their Lordships after the fact even as before it. His Lordship gave this caution, as it might be the means of preventing people for the time to come from falling into error.

On reading the clause respecting the bastardy of the issue of Lady Maria, since the divorce was obtained in the ecclesiastical court,

Earl Bathurst.

Earl *Bathurst* observed, that it would be proper, instead of the words of the clause, which purported that the commencement of the bastardy should be from the passing of the bill, that some certain day should be substituted more conformable to the nature of the case; for example, that a computation should be made of the time that had elapsed since the husband had no access to the wife — say, from February, 1782, in which month the divorce was obtained *a mensa & thoro*, and an allowance then made of so much time as the state of pregnancy generally consumes. This being done, it would be then accurate and fair to lay down the day from whence the bastardizing clause was to take effect, otherwise it would (according to the terms in which it was now couched) commence with the beginning of the session.

Lord Thurlow.

Lord *Thurlow* reprobated the clause entirely, on the principle of substantial justice, which he said would be violated, if they attempted to bastardize a person who was not before the House. His Lordship went considerably into the history of the civil, canon, and municipal law, relative to this point, and concluded, that law and equity, and common sense, all concurred to sanction his opinion.

Earl Bathurst.

Earl *Bathurst* controverted his Lordship's ideas on the subject, and in his turn appealed to the civil, canon, and municipal laws, for the rectitude of his sentiments.

Lord Thurlow replied.

The Earl of Sandwich.

The Earl of *Sandwich*, after paying very honourable testimonies of his respect for the vast abilities of the last noble speaker, could not however help differing from him on the present occasion. He was no great judge of law, but common sense told him that it would be not only unjust, but exceedingly cruel to hold such a terror over an innocent man for twenty years, as the apprehension of having a spurious issue forced upon him at last, when the matter might now be decided in a moment, on the best evidence that ever could be had upon the subject. The non-access being proved, surely the bastardy was matter of course. His Lordship, in confirmation of his opinion, told a story of a case of bastardy at the assizes of Huntingdon, where a man had been forced to marry a woman, but immediately after the ceremony, jumped over the church-yard wall, and swore he would never have any thing farther to do with the damnable termagant

termagant as long as he lived; yet a child of her's ſued to be his heir. And though it was admitted, that the man had been ſeen with his wife in a room at an alehouſe, ſtill, as this meeting was in company, and as it was proved very ſtrongly that he had preſerved the oath he had made when he jumped over the church-yard wall, the judge charged the jury to find the baſtardy of the pretender. On this occaſion, his Lordſhip ſaid, he had congratulated the learned judge, upon ſeeing that very uncommon union of law and common ſenſe. His Lordſhip then declared himſelf in favour of Lord Bathurſt's ſentiments.

The Earl of Mansfield.

The Earl of *Mansfield* ſaid, that as he had not heard the whole of the evidence, he could not decide upon the preſent queſtion, but he would ſtate to the Houſe how the law ſtood. Whereupon he entered into a ſhort, but exceedingly clear account of the manner of obtaining final ſeparation prior and ſubſequent to the Reformation. Prior to it, marriages in caſe of adultery were diſſolved on the pretence of ſome impropriety in the formation of them; for marriage among Papiſts being held a ſacrament, could not otherwiſe be broken. The ſame ſuperſtitious notion was retained for a long time after the Reformation, and of courſe the ſame mode of diſſolution. It was not till about forty years ago that divorces became uſual, but of late they were aſtoniſhingly increaſed. But in all caſes whatever, during coverture and antecedent to the bill of divorce *a vinculo matrimonii* taking effect, the preſumption of law was that the huſband was father to whatever child ſhould be born of his wife, until the contrary appeared by the proof of non-acceſs. And as poſitive proof could not be inſiſted on in that reſpect, the beſt circumſtantial evidence that could be had was always required. What the evidence in the preſent caſe was, their Lordſhips who heard it, were certainly the moſt competent to decide; but it was thus that the law ſtood.

The clauſe was then filled up according to Lord Bathurſt's idea. In filling up the clauſe reſpecting a proviſion or ſeparate maintenance for Lady Maria, a converſation took place between Lord Bathurſt, the Chancellor, and Lord Sandwich, who contended, that one hundred a-year was a generous allowance, and Lord Dudley and Lord Derby argued for extending it to two hundred; but on a diviſion the ſenſe of the Houſe appeared to be in favour of one hundred.

It was then agreed that the committee ſhould make their report to-morrow.

April 16

Lord Mansfield.

Lord *Mansfield* acquainted the House that he had received a letter from General Eliott, Governor of Gibraltar, in answer to the Thanks of that right honourable House, voted to the General, officers, and men belonging to the said garrison. The letter was read to the House by the Clerk, as well as those from the other officers, and were as follow

"MY LORD, *Gibraltar, March 20, 178*..

"I had the honour to receive your Lordship's letter of the 13th of December, accompanying the resolution of the House of Lords of the 12th.

"Such being their Lordships pleasure, I accept, (although little deserving) with becoming deference, so high and distinguishing a testimonial of approbation, from the most illustrious order of subjects.

"In obedience to their Lordships commands, I have signified their second order of the said date to the several officers expressed therein, and I transmit to your Lordships their acknowledgments.

"Their Lordships third resolution has been communicated to the whole garrison, and will be publicly declared to the troops under arms, with suitable military forms, at the first proper opportunity.

"I am confident they will receive the honour done them with every possible demonstration of gratitude and joy.

"The satisfaction your Lordship* is pleased to express in conveying to me the resolution of their Lordships, will, I hope, justify the offer I presume to make of my most humble acknowledgments.

I am, my Lord,
With the highest respect,
Your Lordship's most obedient,
And most humble servant,
G. A. ELLIOTT."

"SIR, *Gibraltar, March 17, 1783.*

"It was not till this morning that I have been able, with any degree of ease to myself, to put pen to paper, which is the reason of my not having sooner acknowledged the favour

* Lord Thurlow when Chancellor.

of

of the 17th, enclosing the resolution of the House of Lords of the 13th of December, 1782, which is, in my opinion, a most glorious recompence for the best services of a British officer.

I have the honour to be, Sir,
Your most obedient humble servant,

ROBERT BOYD."

Right Hon. Gen. Eliott.

"SIR, *Gibraltar, March 17, 1783.*

"I have the honour to acquaint your Excellency with my having received your Excellency's letter of this day, together with a copy of the resolution of the House of Lords, and I do make it my request, that your Excellency will be pleased to acquaint the House with my most humble acknowledgments of the high honour done me by their Lordships in the said resolution.

I have the honour to be,
With the greatest respect, Sir,
Your Excellency's most obedient,
And most humble servant,

A. DE LA MOTTE."

The Right Hon. his Excellency
General Eliott, &c. &c. &c.

"SIR, *Gibraltar, March 18, 1783.*

"I was honoured with your Excellency's letter of yesterday, inclosing a copy of the thanks of the Lords Spiritual and Temporal in Parliament assembled, to certain officers lately employed in the defence of Gibraltar, among whom I have the honour to be named,

"I must in return beg your Excellency will be pleased to lay before that most august assembly, my most grateful acknowledgments for such transcendant marks of their Lordship's condescending approbation of my contributing endeavours towards the late defence of Gibraltar—an honour I hold of so noble and stimulating a nature as cannot fail to inspire my future public attentions with every ardent desire to approve myself in some degree not unworthy of such a flattering distinction.

"Permit

"Permit me alſo to ſay, I feel an additional ſatisfaction in having ſuch a high prized honour tranſmitted to me through your Excellency's obliging means.

I have the honour to be,
With the higheſt reſpect, Sir,
Your Excellency's moſt obedient,
And moſt humble ſervant,
W. GREEN."

Right Honourable General Eliott.

Brilliant at Gibraltar, March 18, 1783.

"SIR,

"I am to acknowledge the receipt of your letter of yeſterday's date, accompanying the thanks of the Houſe of Lords for my conduct during the ſiege of Gibraltar.

"I beg you will on my part, be pleaſed to ſignify, that I have as high a ſenſe as man can have, of the honour their Lordſhips have conferred on me.

I have the honour to be, Sir,
Your moſt obedient,
And moſt humble ſervant,
ROGER CURTIS."

To the Right Honourable
Sir George Auguſtus Eliott,
Garriſon Gibraltar, &c. &c. &c.

Lord *Scarſdale* reported to the Houſe of Peers the amendment made to the bill, "for diſſolving the marriage of Andrew Bayntun, Eſq. with Lady Maria Coventry, his now wife, and to enable him to marry again, and for other purpoſes therein mentioned." When the clerk came to the amendment made in the baſtardizing clauſe, Lord Radnor roſe up, and offered his reaſons why he was againſt the clauſe remaining in the bill, and wiſhed the farther conſideration of the bill might be poſtponed till a future day, as he wiſhed to have a queſtion put for the opinion of the Judges. This brought on a converſation, in which Lord Thurlow, Lord Mansfield, Lord Bagot, and Lord Denbigh ſpoke; at length the queſtion was put, "That the farther conſideration of this bill be put off till Wedneſday the 7th day of May next."

The Houſe divided, contents 10; non contents 8.

It was

It was afterwards moved, that the Judges do then attend, and the following queſtion be put to them: "Whether the iſſue, born of a woman after ten months from the day of her elopement from her huſband, and living apart from him in open adultery, ſuch huſband having inſtituted a ſuit in the eccleſiaſtical court, and no non acceſs proved, be, or be not, a baſtard?"

The ſame was, upon the queſtion put, ordered accordingly.

April 17.

The royal aſſent was given by commiſſion to twenty public, and thirteen private bills; the commiſſioners were Lords Mansfield, Stormont, and Dartmouth.

Adjourned to Monday 28th.

April 28.

No buſineſs.

April 30.

The "bill to endemnify the Eaſt-India Company from all loſſes in reſpect to their not making regular payment by certain ſums due to the public; and to allow farther time for ſuch payment, and to enable the Eaſt India Company to borrow a certain ſum, and to make a dividend of 4 per cent. to the proprietors at Midſummer, 1783," was preſented to the Houſe of Peers from the Commons, read a firſt time, and ordered to be read a ſecond time the next day.

May 1.

On the ſecond reading of the bill to enable the Eaſt India Company to borrow money, and for other purpoſes,

Lord Walſingham.

Lord *Walſingham* roſe, expreſſing his aſtoniſhment that a bill of ſuch a nature had not been brought in by one of his Majeſty's ſervants, and the neceſſity of it declared in the ampleſt and cleareſt manner. The ſuperintendance of the concerns of that great commercial body, in his Lordſhip's conception, fell in a peculiar manner within the province of adminiſtration. However, as it had not been thought fit to bring the matter forward in ſuch a way, he conſidered it to be his duty, as the occupant of a ſeat in the great council of the nation, to ſtate to their Lordſhips (as far as he was able to collect) the nature and tendency of the bill, not for the purpoſe of oppoſition—he meant none—but ſolely with the

view

view of putting their Lordſhips on their guard with reſpect to other buſineſs of a deſcription ſimilar to the preſent, which he underſtood it was in contemplation to introduce into Parliament in a very ſhort time, in conſequence of the paſſing of this bill. His Lordſhip then ſtated, that a petition had been preſented to the Lower Houſe of Parliament, by the Eaſt India Company, in which (from what motive, he ſaid, their Lordſhips would beſt judge) all the claims that could poſſibly be raked together by the Company againſt government, were ſome how or other brought forward from a date ſo far back as the year 1745, down to the preſent day. The petition then repreſented the diſtreſſing circumſtances in which the Company ſtood at the moment, and the urgent neceſſity under which they laboured; in the firſt place, for a loan to pay off inſtant demands, and in the next, for an indulgence in regard to the payment of a vaſt ſum, for which they were indebted for duties at the Cuſtom-houſe. It went farther, and prayed leave to make a dividend of eight per cent. This petition, without other ſanction than the opinion of a Committee of the Houſe of Commons (to whom it was referred) barely ſignifying that the claims appeared to them juſt, was the foundation of the bill before their Lordſhips. The wiſdom of the meaſure intended for the relief of the petitioners, had not, in his Lordſhip's thoughts, received due inveſtigation; but the affairs of the Eaſt India Company were now ſo very critically ſituate, that to delay the bill which had juſt received a ſecond reading, might prove fatal, he would therefore raiſe no objections againſt it, as he premiſed when he got up. However, he could not forbear expoſing the impolicy of it, by contraſting it with a bill brought into Parliament on occaſion of the Company's exigencies, in the year one thouſand ſeven hundred and ſeventy-three. A period which, their Lordſhips need not be told, wore by no means an aſpect leſs gloomy than the preſent one. In that year the Company, as now, had not only their bills to pay, but duties to a great amount at the cuſtom-houſe. What relief did Parliament give them? not, as in the preſent caſe, leave to borrow money merely for the purpoſe of paying their bills, and an indulgence of delay as to the payment of the cuſtom-houſe duties, but leave to borrow money, to pay off not only their bills, but the duty alſo; and by thus wiſely tying them down to the rigid principle of paying off their debts, before they preſumed to make a dividend, the company had no temptation

to make one larger than the real ſtate of their finances could afford. Parliament would not then ſuffer them to make a dividend of more than ſix per cent. and not even that, till not only their bills but their duties were fully ſatisfied. How different the tendency of the preſent act! By granting them the indulgence of a delay in the payment of the cuſtom-houſe duties, their ſpirits were falſely elated, and they affected the ability to make a dividend of eight per cent. when, if their true intereſt had been attended to, they would not have been allowed to make even five. But his Lordſhip feared that it was too late to remedy this error; yet ſuppoſing that to be the caſe, he truſted Parliament would, whenever the ſubſequent applications from the Company came before them for relief, adopt the very prudent meaſures of 1773, or ſomething ſimilar to them as the rule of their conduct. His Lordſhip declared that he was no proprietor in any other ſenſe, than every noble Lord in the Houſe might be ſaid to be, as a truſtee for the public, in his legiſlatorial capacity. What he had taken the liberty to obſerve, he deemed his duty, and hoped it would have the deſired effect, which was ſolely the common welfare of the ſtate.

Earl Fitz-william.

Earl *Fitzwilliam* ſaid a few words on the almoſt deſperate ſituation of the Company's affairs, in which he ſaid bankruptcy was ſcarcely evitable. And with reſpect to the dividend of eight per cent. reprobated by Lord Walſingham, he thought it not only far from being imprudent, but he conſidered it politic in the extreme. The world entertained ſtrong doubts of the ſolvency of the Company, nothing ſurely then could be better calculated to deſtroy thoſe doubts than a large dividend ſanctioned by Parliament; he underſtood that in caſe the Company ſhould not be permitted to borrow this money, they muſt inevitably become bankrupts; the expenditure of their ſettlements had far exceeded their revenue: the conſequence of which was, that their ſervants abroad had drawn bills payable at home, and which bills they would be unable to anſwer without this temporary ſupply; with reſpect to their dividing eight per cent. the public, from the diſagreeable accounts we have received from India, had loſt great part of the confidence they had formerly held in that ſtock; it was, on that account, needful for the ſupport of the credit of the Company, that ſuch a dividend ſhould be made. His Lordſhip therefore hoped that no objection would be made to the bill, eſpecially as the Company were, or would ſoon be liable to be ſued for the immenſe ſum due by them to the Cuſtom-

 houſe,

house, which must unavoidably precipitate the bankruptcy so much dreaded.

No other Lord rising, the question was then put, and the bill referred to a Committee of the whole House.

The Earl of Shelburne

The Earl of *Shelburne* conceived the bill was of the greatest consequence to the India Company; their trade, their possessions, their finances, were in a most deplorable and distracted state; nor was a bill then on their Lordship's table of less consequence to the community at large who were in nearly as wretched a situation as the India Company - he meant the loan bill. It might be urged by some prejudiced persons, from his standing forward against any propositions of ministry, so soon after his quitting a place of importance, that he was actuated by resentment, to oppose the present administration; but nothing was farther from his thoughts; many of them he highly respected, and hoped, being in Administration, (it was not for him to say how they got there) they would endeavour to act for the advantage of their country; for his own part he was an enemy to party for opposition-sake, and trusted he should ever avoid personalities or improper language, for all the abuse he had, or might receive. He was happy at having recently received the approbation of the independent part of his countrymen for his conduct; a circumstance he was prouder of than having the most important situation this kingdom could give, and he went out of place holding his head higher than any of these who came in.—He had always endeavoured to merit that approbation, by exposing those measures he apprehended would prove disadvantageous to this country, and he intended to act on the same principles as long as he should have the honor of a seat in that House; it was this, and this only, that had brought him now to the House, and which would induce him to trouble their Lordships with a few observations on the loan-bill, when it was brought forward for their consideration; this, he understood, was intended for Monday next; but he advised Ministers to be cautious how they hurried a bill of that importance through the House; he requested their Lordships would be cautious how they suffered a bill of that magnitude to pass without a proper investigation; for notwithstanding the public demands might be urgent for the supply, yet it would be better to delay those supplies for some little time than permit the community at large to groan under an imposition; should it prove that those who had the conducting of the business could not possibly make better terms than they had done, they would certainly deserve the thanks of the

the public; but this he greatly feared would not be the case; however he would not trouble the House with his opinion until the matter was properly before them.

Lord Stormont. Lord *Stormont* was surprised that the noble Lord should have the most distant idea of delaying the bill in its progress, when he considered the time of the year it was brought up for their concurrence, and the necessity there was for its immediate dispatch; so convinced was he of the necessity, that not the least delay ought to be given, that he would move their Lordships for the second reading immediately; that it be ordered to the committee to-morrow, and that it be read a third time on Monday; and as he found the bill was to undergo a severe scrutiny, their Lordships might either take it into consideration now, in the committee to-morrow, or on the third reading on Monday, as they should think most proper. He was certain the House had an undoubted right to investigate a loan, as well as every other bill that came before their Lordships: but if a plain man might be allowed to speak from experience, in answer to that flow of eloquence which had just been used, he should give it as his opinion, that their Lordships making an alteration in a money bill, was in fact throwing it out; but whatever might be the fate of the bill, he doubted not their Lordships would be convinced of the propriety of his motion, and suffer the bill to be read a second time.

Lord Thurlow. Lord *Thurlow* was of opinion, that it would be highly improper for the noble Lord's motion to take place; as it had been generally understood both in and out of that House, that the second reading of the bill was fixed for Monday next: many noble Lords who intended to be present, and had some remarks to make, might not be then in the House, and of course must lose an opportunity, not only of hearing the terms of the loan fairly investigated, but be entirely deprived of taking part in that investigation; besides it would be breaking in upon the constant practice of that House, and might, in future, be held as a precedent for bringing on matters of the greatest importance by surprise, at a time when scarcely any of their Lordships should be present: he likewise thought the motion a very improper one, to come from the noble Viscount, unless he was to understand that no dependance was to be placed on what one Peer said to another. A noble friend of his had wrote to him from the country, to know when the second reading of the loan bill was to be; he, willing to give his friend the best information in his power,

had applied to the noble Viscount, stating the matter, requesting to know when administration meant to bring it forward, and had received for answer on Monday next; he accordingly sent word so to his friend, not imagining the noble Lord meant himself to bring it on sooner.

Lord Stormont.

Lord *Stormont* said, that when the learned Lord applied to him, he had given him the best reply in his power; it was impossible for him to give a positive answer; as from the situation he held, he could not be supposed to speak officially; and from his total ignorance of the exigencies of that department, he could not foresee the actual necessity for bringing it on sooner; had he, however, suspected that his Lordship had any particular reasons for knowing the day to a certainty, and that any alteration would be thought by him of consequence, he should not have presumed to have hazarded any answer to his requisition, but have referred him to the noble Duke, now at the head of the Treasury Board; he could not for a moment harbour an idea that the learned Lord wished to send private letters for noble Lords to attend on such particular business; he knew that he was too sensible of his own dignity to descend so low, at least every one in that house must be incapable of supposing he would stoop to such a transaction; he should not, most certainly, have endeavoured to bring on the business sooner than he had told the learned Lord, had he not been informed by those who must know that any delay would be of the utmost consequence, and therefore in compliance with their wish, he had proposed his motion for their Lordships' consideration; he could not see why it should be objected to, because many noble Lords supposed it was fixed for Monday; as it might, with equal propriety, be taken into consideration on the third reading on that day, as on the second, if their Lordships chose rather to do that, than take it up in the committee to-morrow; which he had proposed, because some other material business was to come on, which he did not doubt would occasion their attendance, and so dispatch them both together.

Lord Thurlow.

Lord *Thurlow* declared, he never had, or ever would be the means of bringing any noble Lord to that House, upon any subject whatever: He acted upon his own principles, and he should leave every Lord to do the same. In the present case he had received a letter, merely to know the day the business was to come on, and he had sent an answer, the best he could get. The noble Viscount, among other things, had said,

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he ſhould not think of making any alteration in a money bill, as it would be in fact equal to objecting to it altogether, but give it a negative at once; allowing that would be the caſe, he muſt differ with the noble Viſcount in his proceedings, and would rather chooſe to ſend it back with alterations, that the other Houſe of Parliament might ſee in what points they differed.

The Earl of Shelburne.

The Earl of *Shelburne* ſaid, the noble Lord in the green ribbon had miſtated what had fell from him, in ſaying that he wiſhed to give any delay to the bill; and he appealed to every noble Lord preſent, whether they had heard him uſe any ſuch expreſſion; he had only recommended that the bill ſhould not be hurried through the Houſe in any unprecedented manner; but that every Peer ſhould have proper time to take it into conſideration; which he had no ſooner done, than the noble Viſcount gets up and moves for the ſecond reading, two days ſooner than was before intended, as if he was apprehenſive of its undergoing ſuch an inveſtigation; he was aſtoniſhed that the noble Viſcount ſhould have moved for the ſecond reading of the bill on that day, after the converſation which occurred between him and a noble Lord on a former day, in which that noble Lord profeſſed he underſtood that it was agreed and ſettled, as far as in a private communication it could be ſettled, that the ſecond reading of the bill ſhould be on Monday. It was neceſſary that the ſtricteſt regard ſhould be paid to communications of this nature. With reſpect to the altering a money bill, the noble Lord knew as well as he did, that there was more than one opinion on that ſubject in the Houſe, for he had heard ſome noble Lords who were not then preſent, deliver their ſentiments on it. He did not doubt but government was very much diſtreſſed for the money, yet he could not ſee there was ſuch a preſſing neceſſity as to alter the arrangements of the buſineſs in that houſe, and by that means prevent noble Lords from having proper notice, as at moſt they would be enabled to gain but one day, for the ſecond reading being on Monday, it might be committed for Tueſday and paſſed on Wedneſday.

Lord Stormont.

Lord *Stormont* had not deſignedly miſtated the noble Lord; he meant to allude to his having ſaid ſome little delay, and why this little delay ſhould be made he could not ſee any reaſon; it was allowed on all hands, that this money was wanted for preſent uſe; for although the ſubſcribers to the loan had made their firſt payment, yet not a ſhilling of it could be uſed, until the bill was paſſed, and therefore it lay entirely

tirely locked up from the service of government; in defence of the short space they wished it to take in passing that House, and to prove that it was not totally unprecedented, his Lordship referred to the journals, and proved by them that the loan bill, neither last year, nor the year before, had taken more time than would be allotted to this. He by no means thought himself entitled, in any private conversation, to settle the reading of a bill which did not peculiarly belong to his situation in office, which this bill did not. In his conversation with the noble Lord on a former day, no such agreement took place, and he said no more than that the Bill was, in his opinion, to be read on Monday, but he knew not even whether the noble Lord meant this or the American Bill, so slight was the conversation. That noble Lord, whose presence was requisite, it seemed, was not, he apprehended, at the extremity of the kingdom—he could easily be informed with another letter, that the third reading would be on Monday. He by no means intended to dispute the right of the House to discuss and to alter money bills. They undoubtedly would do it, but arguing from experience, he and they all knew that if they did alter, it was equal to a vote of rejection, for it made it be thrown out in the other House.

Lord Thurlow.

Lord *Thurlow* said, that by the noble Lord's words it might be imagined that he would canvas and press the attendance of Lords on particular questions. This he assured their Lordships he never would descend to commit. He had written to a noble Lord then in the country, in consequence of an application that he made to him for that purpose In regard to altering money-bills, he should certainly prefer altering to rejecting them, if it were only to inform the Commons how to fashion the new bill to be brought in its stead.

Earl of Shelburne.

The Earl of *Shelburne* said, that the conversation between the noble Viscount and noble Lord ought to determine the point, for, unquestionably every one of their Lordships understood that the second reading was to be on Monday next. He said that there were some Lords who held very strong doctrines on the right of that House to alter money bills, and who had often declared that they would persevere in the practice of altering where they saw it necessary, in the hope that the House of Commons would at last yield to the constitutional doctrine of the equal right of both Houses. He again spoke in very warm terms of reprobation of the bargain which had been made, and said that every considera-

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tion of duty to the people of England, and indeed every regard to the constitution, called upon him to make known his observations on this bargain, in which he declared he considered the very principles on which our constitution depended were violated.

Ld Sydney.

Lord *Sydney* made his maiden speech, and apologized, as being so lately come among them, for delivering his sentiments. It was the first time, he said, that he had ever heard it made a question that their Lordships had not the right of discussing money bills. He said it was requisite that they should enquire into this bargain, which was certainly improvident, to say no worse of it; and considering the habits of intimacy in which he had lived with the noble person who was principally concerned in making it, he would not be supposed to be captious on the subject; but it seemed to have been made improvidently. After what a noble Viscount had said, he expected to hear of no more Treasury letters being sent to press the attendance of any Peer in that House.

Duke of Portland.

The Duke of *Portland* (who came in during the debate) observed that the demands on the Treasury were so great, and the loan had been so long delayed, that the greatest possible dispatch was absolutely necessary; he should therefore hope their Lordships would suffer it to be read a second time then negative the committee, and that its third reading be ordered for to-morrow.

The Earl of Shelburne.

The Earl of *Shelburne* conceived this to be acting with too much precipitation; if the Treasury was in this pressing necessity, how came it that the first Lord had not attended yesterday, and given some notice of it; he had waited two hours for him this day; he did not mean to throw the most distant glance of neglect on him, but he always understood it was highly necessary for him to attend when business of that importance was brought forward, he still however trusted the noble Duke would act with some degree of candour to those who understood it was to come on on Monday, and he had no objection to its being taken into considera[illegible] on the third reading, as the noble Viscount had proposed.

Earl Fitzwilliam.

Earl *Fitzwilliam* did not see why it should not be proceeded on in the manner proposed by the noble Duke; nor did he believe the noble Earl who spoke last, would risk that popularity he had boasted of, and which he seemed to prize so much, by standing forth to oppose it when he was told there was not a single guinea in the Treasury to answer any demand that might be made on it; this had its proper weight

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with him, as it must have with every noble Lord, when they heard ſuch was the fact.

Duke of Portland. The Duke of *Portland* ſaid, that the noble Earl of all men ſhould be the laſt to propoſe any farther delay in the paſſage of this bill, conſidering the time to which it had been already ſo long and ſo inconveniently delayed. For his own part, he perſiſted in wiſhing that it might not only be read a ſecond time this day, but alſo that the queſtion of commitment ſhould be negatived, and it ſhould be read a third time to-morrow.

Earl of Shelburne. The Earl of *Shelburne* ſaid, that to negative the queſtion of commitment would be very irregular. There was not a precedent of ſuch a proceeding, that he knew of, on the journals.

The D. of Portland. The Duke of *Portland* at laſt ſaid, as it had been generally underſtood to ſtand for Monday, and as ſome noble Lords might wiſh to make ſome remarks on it then, he had no objection to acquieſce in the propoſition of the noble Viſcount, and meet the noble Earl (Shelburne) according to his wiſh.

Earl of Shelburne. The Earl of *Shelburne* by no means agreed that it was by his approbation it was read a ſecond time then; he only ſpoke individually that he ſhould not oppoſe it. The bill was then read a ſecond time and ordered to a committee to-morrow, and their Lordſhips to be ſummoned for the third reading on Monday next.

May 2.

The order of the day being read for the ſecond reading of the American Trade bill,

Lord Thurlow. Lord *Thurlow* roſe, for the purpoſe of making ſome obſervations upon it, to the end that the Houſe might, if it ſhould ſeem meet to them, turn that buſineſs in their minds, previous to the going into a committee, that ſuch alterations might be made in it as due deliberation ſhould ſuggeſt. It was true, he did not riſe without ſome pain, at obſerving the jealouſy which thoſe in power were diſpoſed to entertain of the conduct of ſuch as thought fit to animadvert (no matter how rational the grounds of animadverſion) on any meaſure which the Miniſter thought proper to adopt. It was ſo much the cuſtom to impute any, the commoneſt and moſt ordinary obſervations upon the buſineſs that paſſed the Houſe, to motives of party ſpleen, or, as it had been elegantly termed on a recent occaſion, to a ſprout of oppoſition, that

that it was with extreme unwillingness that he at any time gave their Lordships the trouble of hearing any remarks that he had to make, and that occurred to his mind as necessary to be made on such bill or bills as came under their Lordships consideration. But though it was disagreeable to him to rise under such circumstances as he had described; though he should be extremely concerned indeed to hear the expression, he had just mentioned, imputed to him, as a motive for his conduct, by any person, whose opinion he was obliged to respect as unprejudiced and impartial, and though he was convinced, that what he had formerly heard boasted of as a merit, under the title of a *substantial opposition*, went in direct contravention of every principle of the honour and duty of persons having seats in that House, and that nothing would be more degrading and disgraceful, than rising to impede every measure of Government, whether right or wrong, from mere party prejudice, affection, or interest, yet conscious as he was of the rectitude of his motives, and relying on that candour which he trusted would always be manifest in every idea which he should do himself the honour of submitting to their Lordship's consideration, he would hold himself unworthy of a seat among so illustrious a body, if any aspect whatever could for a moment deter him from his duty as an independent member of a free Parliament, and he could not so far forget what he owed to himself, and what he owed to the public, as to let a bill, of the nature of the present, pass in silence, or without imparting to their Lordships, and submitting entirely to their judgment and wisdom to dispose of them as they might, a few observations which the present shape of the Bill suggested to him, as necessary to be attended to in the Committee. I intend not, said his Lordship, to object to the *principle* of the Bill. I know it is founded on necessity. It is the shape I think improper: *that* will not allow it to operate to the end of its creation. The object of the bill is important; it is the procuration of a great and beneficial trade; but that trade, how beneficial soever it may be reckoned, can never, in the sight of a free people, be considered by any means equivalent to the loss of any one of their essential privileges. One of the most essential privileges of the English nation is infringed by the last clause; it gives a power to the executive part of government, that ought in fact to reside only in the constitution. If not expresly, certainly by construction. It authorises his Majesty in Council, "to give such directions, and to make such regulations

with respect to duties, draw backs, or otherwise, for carrying on the trade and commerce between the people and territories belonging to the Crown of Great Britain, and the people and territories of the United States of America, as to his Majesty in Council shall appear most expedient and salutary, any law, usage or custom to the contrary notwithstanding." History tells us, continued his Lordship, that free countries have sometimes been so circumstanced, as necessarily to suspend their ordinary course of government, and to appoint a Dictator; but I am yet to learn whether history, or the present times, display to our view, or ever appointed a Dictator whose orders should be *perpetual*. It may indeed be said, that the concluding words of the bill will hinder the orders of his Majesty in this case from being perpetual. What are these words, "That this act, as to the exercise of the powers and authorities hereby given to his Majesty, shall continue to be in force from and after the passing of this act, for and during the space of six weeks, and no longer."—— Now, let me ask your Lordships, how does this limit the duration of his Majesty's dictatorial power given him in the clause I have just mentioned? Why, not at all. It only declares, that his authority to make orders shall cease in six weeks after the passing of the bill; but it does not say, that the orders which the King in council has passed during these six weeks, shall lose their efficacy after that period. Inspect the first clause, my Lords, and you will find it not an iota less reprehensible. He went to a consideration of that part of the first clause of the bill, which enacts, "that no manifest, certificate, or other document whatsoever, shall be required for any ship or vessel belonging to the said United States of America, arriving from thence at any port of this kingdom," &c. His Lordship said, he thought the words "no other document whatsoever" went too far. Their Lordships all knew, that every vessel clearing outwards had a cocket, which cocket must be produced to the searcher of the port, as his authority for letting the ship pass. Was it meant in the present instance to let American ships pass without any such cocket? If it were, a door would be opened to endless abuse and fraud. His Lordship next said, he was perfectly astonished to find any mention in the bill of duties and drawbacks. He had conceived the general powers vested in the Crown by the bill, made such a specification unnecessary, as that would of course be included among the matters, which the King in council was authorised to do. Indeed all other

clauses,

clauses, says he, must appear unnecessary, after the general authority which the clause I have been just animadverting on intends to convey. This clause is evidently injurious to the fair trader, and puts the American on a better footing in his traffic than the Englishman. And the second clause is, if possible, still more unsound than either of the other two. It says, that in any case, where a certificate is required to discharge certain bonds, entered into for the landing of certain goods within the United States, such bonds shall and may be discharged upon a certificate, under the hand and seal of any officers, who are or may be appointed by the said United States for that purpose. I cannot conceive upon what grounds the framers of this very extraordinary bill went, said his Lordship, when they penned this clause. For my own part, I have never read nor heard of any confederated States taking upon them, in their collective capacity, to appoint officers for carrying on the peculiar business of any of the individual States that composed the fœderal union, and I fancy my ignorance in this particular will not be deemed a case of singularity by any of the intelligent body, whom I have now the honour of addressing. But there is still something more novel to be observed; the clause speaks, not only of a power in Congress to appoint officers of the description I have now mentioned, but to appoint them, "for that purpose." For what purpose? Why, truly, the purpose of carrying into execution the laws of a foreign nation. The idea is absurd—so absurd indeed, that one would not imagine it could admit of heightening. And yet it does, in a few lines following, where, in case of no such officer being appointed, any magistrate of the United States is vested with like authority. Any magistrate! Your Lordships all know that a constable is called a magistrate in England, and what sort of uprightness might be expected from a constable in deciding on matters of the greatest commercial magnitude, I shall leave it to your Lordships to determine. What I have now thrown out, I must say, I would have been more happy to have communicated in private to those in administration; but as I perceive so great a jealousy of the intentions of those men who find fault with their proceedings, in however friendly or rational a way their opinions may be given, I am deterred from opening my mind to them, and compelled by my duty to lay it publicly before your Lordships. I mean no opposition to the bill, my only view is its correction.

Earl Bathurst.

Earl *Bathurst* agreed, that the bill was exceedingly improper in its present shape. His Lordship said, it was one of the worst worded he had ever known; but it was evidently dictated on the spur of the occasion; and its chief fault was, as the noble Lord very properly observed, the unlimited operation of the power vested in the King in council. To remedy this, he would offer to the consideration of the House a clause for their Lordships' adoption. They might reflect upon it in the interval between the second reading and the commitment of the bill, and use it according to their discretion. His Lordship then read his proposed amendment to this effect, "That this act, as to the exercise of the powers and authorities hereby given to his Majesty and the operation of these powers, shall continue to be in force from and after the day of   for and during the space of   months and no longer." His Lordship said, he left the blank for its commencement, that it might be filled up with some certain day, otherwise as it now stood, it would bear date from the first day of the session. To prove this the noble Lord stated a case of a bill passed in the year 1769, which gave the liberty of exporting rice, duty free; and of another bill in the same year, laying an impost thereon. The merchant exported under the authority of the first bill, before he heard of the second; yet the commissioners, on the second bill passing, demanded the duty on what the merchant had exported, alledging that the last bill, by not stating the precise day on which the act commenced, took effect from the first day of the session; and the matter was solemnly argued before the Lords in 1772, and the impost fixed accordingly from the commencement of the session. He left a blank for the continuance of the act, that their Lordships might turn it in their thoughts before it went into a committee, what space of time would be proper to allow for its operation; to talk of six weeks, was talking idly. He thought it might be specified, and its operation *in toto*, limited to the 20th of December next. His Lordship urged the necessity of this amendment, and said, the present act was a mere temporary measure, and that a general bill was intended to be brought in, but that the House must see, that it would be impossible to bring in such a general bill in six weeks time; he therefore proposed, that the operation of the present bill, and of every thing done under it, should extend to the 20th of December, thinking it reasonable to afford some time after Parliament met

met again, in order to enable those, who would have the business in their hands, to draw a general bill with sufficient attention and care, to render it fit to become a permanent law. The Earl, before he sat down, said, he was induced from respect to their Lordships, and because he foresaw that his proposed amendment might give rise to some difference of opinion, to state his intention then, and to explain the reasons that induced him to adopt it, in order to give their Lordships a fair opportunity of considering both the one and the other, before they went into a committee.

The D. of Portland.

The Duke of *Portland* said, that he did not see the value of the observations which had been made on the bill; but, as the noble Lords who had made them, deferred their farther consideration to its appearance in the committee, so would he also his thoughts upon the subject.

The bill was then read, and committed for Monday.

May 5.

LOAN.

The order of the day was read for the third reading of the loan bill, when

The Earl of Shelburne.

The Earl of *Shelburne* rose and called the attention of the House to two propositions, which he introduced with a preface of considerable length, disclaiming all ideas of rancour and enmity, and professing that he was actuated by no retrospective motives whatever. He had turned in his mind a matter which had fallen from a noble Viscount (Lord Stormont) a few days ago, respecting the exclusive privilege claimed by the House of Commons, of being the institutors, and in a great measure the sole directors of all money bills. This was an idea that he wished by no means to give any countenance to. The House of Commons, he was well assured by a person of the first distinction in this country, who had lived in habits of intimacy with all the great men from the reign of King William to the present time, were constantly encroaching on the power of the Lords. And this disposition to encroach, if suffered to continue, he need not inform their Lordships must materially impair, if not totally destroy, that constitution which was the envy and the admiration of every foreign nation. Since then a period ought some time or other to be put to a matter of such dangerous tendency, his Lordship saw no reason for delaying the salutary remedy for a single moment. —— He

thought

thought the present was as opportune a season, as any that could possibly present itself in future, and, considering it in this point of view, he had accordingly drawn up certain resolutions to submit to the House, which were meant to take cognizance of money matters. He did not intend by so doing to create any difference between the two Houses. What he proposed, was by no means unusual. It had been solemnly decided on the famous dissention between the Upper and Lower House of Parliament in a money case, in the year 1673, that the Lords had of right the privilege of intermeddling, controuling, and directing the management of the public purse; and if, through laziness, or inattention, or timidity, that doctrine had been since shaken, he called upon their Lordships, as they tendered the existence of the constitution, to re-establish it on the firmest foundation. Without meaning to go into that question at large on the present occasion, or to discuss the propriety of the argument of the noble Viscount, he would content himself with saying that he had given it a good deal of consideration, and as nothing could be farther from his intention than a desire to distress Government, or to interrupt the public business, he had hit upon a middle line, which would rescue him from the necessity of opposing the third reading of the loan bill, which would steer compleatly clear of it, and would at the same time lay down and establish a principle for every Ministry, let the administration be who or what it might, to go by in the conduct of future loans. What he alluded to, his Lordship said, were certain resolutions, which he should have the honour to move, but before he moved them, or stated to their Lordships the reasons on which he had grounded them, he would desire that the protest of the 21st of March, 1781, might be read from their Lordships journals*.—The noble Earl said, that in desiring this protest to be read, he meant nothing personal to the noble persons who were now in office. He would have signed that protest himself if he had been present on the occasion; he approved of the principle of it, and wished to apply it to the present day. He enumerated shortly, but accurately, the statements of the several loans which we have had since the year 1776, in order to shew that the present bargain was in every respect as bad for the public, as that which was complained of in the protest on the journals, with this very material difference in the

* Vide Lords Debates for 1781, Vol. IV. Page 181.

the circumſtances of the two, that the one was made in war and the other in peace. He ſaid, that perhaps that which was bad at one time might be good at another; as for inſtance, Lord North was now pronounced to be one of the moſt upright miniſters that ever lived, who uſed to be one of the moſt corrupt.—And therefore the preſent loan might be perfectly free from the ſuſpicion of influence and management, although there were the ſtrongeſt ſuſpicions found againſt that in the year 1781, and that there were exactly the ſame grounds for jealouſy. Of one part of the preſent adminiſtration he had undoubtedly the higheſt opinion: their integrity, their tried character, their profeſſions bound him to rely on their conduct; and he had the beſt opinion of their ſincere wiſhes to introduce œconomy, and to make uſe of the moſt perfect ſyſtem of reform, but he had no idea that that part of the preſent Miniſtry, who had done ſo much to ruin the country, would now conduce to ſave it; and he was therefore afraid that the integrity of the noble Duke would not be enough to guard him againſt the weight of corruption, which he expected there would be placed in the oppoſite ſcale. From the noble Duke he expected every thing that undefiled character, pure honour, patriotiſm, zeal for the public, firmneſs, and ability, could produce. If the noble Duke was not much converſant with public ſpeaking, it was not a requiſite to be coveted; half a dozen ſentences of honeſt declaration would go a greater length from a man of his Grace's diſpoſition, than ſpeeches of immoderate length from others; and he would pleaſe to recollect, that many, many of the great men of former days were not ſpeakers.

The noble Earl then came to examine the grounds on which the proteſt complained of the loan of 1781, and the eſſentials which it held out as the principles on which all loans ought to be made. The loan of that year was proteſted againſt on three different grounds, viz.—the improvidence of the bargain, the corrupt operation, and the partial diſtribution of it. To theſe three heads of objection, his Lordſhip ſaid, he ſhould add a fourth, which, in his mind, as much deſerved reprehenſion as any thing elſe belonging to the loan of the preſent year; he meant, that there was to be a lottery; of which he would ſay more before he ſat down. His Lordſhip ſaid, it was a practice for perſons not immediately ſkilled in loans, to ſuſpect a myſtery in them, he did aſſure their Lordſhips in general, both

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young and old, that there was no mystery in them whatever, and he who affected to make a mystery of them, meant to deceive either in public or in private. A man need not be a great financier, to qualify him for understanding them; nothing could be more simple and easy, when once looked at with attention. He said, it should be his business to simplify what he had to offer respecting them as much as possible, and he did not doubt, but they would all clearly understand the matter, before he had done. They had nothing to do, but to bring their minds to consider millions as hundreds, and to enter upon the account with just the same degree of care and consideration, that they naturally paid to their own affairs. His Lordship said, there wanted nothing but fairness and integrity, to make a good loan in times like the present, in times of peace. He then entered into a comparison of the loans made (as he stiled them) in the happy days of the Duke of Newcastle, and those in the melancholy times, when Lord North presided at the Board of Treasury; and shewed what premium the omnium of the scrip of each bore when the loan had been first opened. After having gone through the whole, he pointed out the different means that there were of making a loan, viz. by an open subscription, by a close one, and lastly by a competition. He enlarged upon each considerably. An open Loan he talked of as a measure to be adopted only under certain circumstances, and then rather in time of peace than of war. A close one he thought an extreme good method, but then he advised by all means the keeping the sum wanted a profound secret till the last moment, to make it with as few as possible, and to give those few the whole without the smallest reserve whatever. He said, the benefit to be derived from giving it to a few was amazing, and that he had found it in the contracts. They were in the hands of fourteen or sixteen when he came into office; that he reduced them first to five, and afterwards down to two, and that the consequence was, the public were not only better served, but at a less price. The reason was obvious; when a few had the whole, a smaller profit satisfied them, because it was exactly the same, whether a money-lender got a small profit upon a large return of capital, or whether they obtained a great profit on a small return. Another thing in making a loan, his Lordship said, was to take care to chuse out none but rich and responsible men, to treat with for it. Such men would make it answer the better, by bringing it gradually to market.

ket, and by buying it in again if it fell too low. As a proof of this, he instanced one of the Duke of Newcaſtle's loans, which from ſome unforeſeen accident, fell to three per cent. diſcount immediately. The Duke, he ſaid, was alarmed, and thinking he had made an unfair bargain with thoſe who had taken the loan, ſent to convene a meeting of them immediately. The Duke was a good deal frightened as well as the money-lenders, and they knew not what project to hit upon; at length one of them, a very wealthy man, deſired the Duke to walk with him into another room. They ſtaid out a few minutes, and then he returned with the Duke in apparently high ſpirits. They told the other money-lenders to go home, and to make themſelves perfectly eaſy, for that care ſhould be taken of them. The perſon in queſtion went immediately to 'Change, and buying up the ſcrip as faſt as it was offered to ſale, it roſe the very next day one per cent. above par. Having declared he had this fact from the ſon of the perſon in queſtion who was principally concerned in it, his Lordſhip came to a conſideration of the terms of the preſent loan, and entered into a minute diſcuſſion of what the terms were. The noble Lord ſaid, he would endeavour to ſtrip the ſubject of all its hard names and difficulties—and having gone at great length into a ſtatement of the ſimple, eaſy, and uncomplicated nature of borrowing money by a loan; he examined every one of the plans diſtinctly, and gave the preference to a cloſe loan by competition, in which no reſerve was made whatever from the individuals who were to make the bargain.

He went into a calculation to ſhew, that in every eſſential point the preſent loan was made in the moſt improvident and reprehenſible way; improvident, becauſe the terms were ſo much more enormous than they ought to have been, and reprehenſible, not only for the want of œconomy with which it was managed, but alſo for its being managed for the purpoſes of influence. He calculated the terms to be on the firſt day of its coming into the market, 5 1-half per cent. and on ſubſequent days it roſe to 6, 6 1-half, 7, 7 1-half, and even to 8, but the fluctuation was from 6 3-4ths to 7 3-4ths, and the medium was about 7 1-4th. He ſtated the ſeveral component parts of the bargain; and ſaid the firſt great fault in it was, that the Miniſter had not taken care to have the proper advantage of ſelling for time. He had ſeemed totally to overlook the diſcount, and he had not taken the advantage of the competition which there was in the market. To his

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knowledge a competition was offered, and that by men of the first ability, and the offer made too by a smaller number of persons than that to whom it was given; but this offer seemed to be totally overlooked. The loan was made too in a time of peace, when the Minister had a right to demand better terms than he could during the war, because he had not the same exigencies for the money. It was made also in a season, when the spirit of gambling so much prevailed, that there was five times the sum offered which was wanted. It was made too in a moment when the Minister had all the benefit of secresy of the sum necessary, and was able to meet the money-lenders without their having been able previously to know what sum was wanted, or what funds were to be taken for the bargain. Under all these advantages the loan was made on terms so high as those he had mentioned, and not only so, but the most unwise and impolitic measure had been taken, whereby not only the money of the people was squandered, but the credit was actually shook; for instead of settling terms that should give the stock-holder an idea that the debt was to be diminished, funds were taken, by which, in order to borrow 12 millions, the nation was loaded with an increase of 16 millions and a half of debt, so that whenever we had to pay back this sum of 12 millions, we should have to pay 16,500,000l. He complained of this as the most improvident of all possible ways of borrowing money, and that above all others of which he disapproved. The influence of the bargain was the next object. It certainly was fair to say that there were clear grounds for suspecting that this was managed for the sake of influence as well as the loan of 1781. A reserve was made, which was disposed of to the friends of the Minister; and in this there were several descriptions of characters pointed out as proper to be considered—Clerks in office—Members of Parliament—and a variety of others. Without meaning to go minutely into the list, he said it was easy to perceive that many of the persons set down there, were men without a shilling—and that by this most pernicious of all modes of influence, the Treasury had had in this loan, which could be detected, 144,000l. to give to their friends—and in an article he thought he could lay his hand upon, 90,000l. more. He reprobated, in most severe terms, this sort of conduct, and came to speak of the slovenly but most inconvenient stratagem for the eking out the loan, which they had used---in granting a lottery. It was a species of public gambling the most dangerous and

4 offensive,

offensive, because it corrupted the manners of the people, and ought to be at once and for ever abolished. After having argued this for a considerable time, his Lordship took a view of what he had heard had been said in defence of the Loan; and first, he observed it had been insinuated, that its badness was to be ascribed to a certain interregnum, the blame of which had been thrown upon him. In answer to this, he denied the accusation; he wished to God, it could be ascertained who it was, to whose conduct that interregnum had been owing. Let it be who it would, he would venture to say, the person ought to be dragged forth to condign punishment as an example to the whole nation. It had also been said, that the last Administration had been the cause of it, by staying in office so long after they had seen it was impossible for them to keep their places. In answer to this, he had only to reply, that the accusation was groundless; as soon as he had heard of the first resolution of the House of Commons, he had felt it right to make up his mind as shortly as possible to going out; on the Saturday morning, as soon as he had heard of the resolution and the division, he had asked if there was any other motion given notice of for Monday, being determined not to recede an inch, while any thing farther was agitating in consequence of the two former resolutions, and he trusted, it would be considered as manly conduct in him to have stood firm in such a moment, and not to have done any thing that looked like an attempt to flinch from the justice of his country. Hearing that no notice of any farther motion had been given, and finding that the House of Commons, notwithstanding its two former resolutions respecting the peace, *durst not* proceed against him personally, he intimated his intention to his Sovereign by letter, and he went to St. James's on the Wednesday to perform it. He owned he had staid in office merely with a view to make what he had said at going out correspond with what he had said at coming in, and that cordial peace with America should be the beginning and end of his official career. Out of respect, therefore, to the city of London, with whom he always had lived upon good terms, and hoped he always should, he had staid in office till the Wednesday, when they went up with their address on the peace, in order to take care of the answer, and the noble Lord near him [Lord Sidney] would, he doubted not, do him the justice to declare, that the words of that answer were more his, than those of any other person at that time in office. It had, his

Lordſhip obſerved, been aſked, how could a better loan be made in a hurry? He ſaw no argument whatever in this queſtion. The loan was ſettled on the Saturday, and not opened to the Houſe of Commons till the Wedneſday following. Was that a proof of hurry? If better terms had been got on the Saturday, than could be had on the Friday, there was every reaſon to expect ſtill better might have been had on the Tueſday evening; and yet it might have been opened to the Houſe on the Wedneſday.

In reply to the argument ſo often reſorted to, that the laſt adminiſtration ought to have made the loan, did even thoſe who uſed the argument, think it poſſible for them, after having loſt the confidence of the Houſe of Commons, to have carried through ſuch a meaſure? It was abſurd, in the higheſt degree, in all who uſed ſuch an argument, to charge them with not having done, what they themſeves would have been the moſt clamourous to prevent, had they been weak enough to have ſuppoſed it practicable, or mad enough to have hazarded the deſperate attempt.

His Lordſhip went into a diſcuſſion of the funds taken to make parts of the loan, and argued upon the propriety of trying a five per cent. after ſtrenuouſly endeavouring to ſhew, that the creation of ſuch a ſtock would have looked like a deſire and an intention to pay off a part of the national debt as ſoon as poſſible, he aſked if hurry had prevented Miniſters from adopting that plan? He reaſoned much upon the queſtion, that it was adviſeable to raiſe the money without adding unneceſſarily to the debt of the nation. As the caſe ſtood, we were to pay ſixteen millions for twelve. He contended that it was more adviſeable to pay a high intereſt, and incur a ſmall debt of capital, than to have a large capital entailed upon us by preferring a ſmall intereſt. If once the idea prevailed that it was not our intention to leſſen the national debt, he ſaid, public credit would be loſt, and public credit he declared it was, that had upheld us, throughout the war, and rendered us the wonder and envy of all Europe. After going through the other conſiderations he ſpoke of a lottery, which, he ſaid, he had at all times reprobated as a meaſure poiſonous to the morals of the people, and productive of the moſt pernicious miſchiefs. Lotteries firſt introduced and encouraged that ſpecies of gambling, which had paved the way for E. O. tables, and had gone ſo much farther as to affect the Bank of England itſelf, and the great trading companies, by turning the ingenuity of

the artists, which ought to be the country's boast and its advantage, directly against its existence, and making those who were resorted to as the means of preserving our paper credit, eager to wound it mortally, by stabbing it in the most vital parts. He described lotteries, which infested and illumined our streets every night as splendid instruments of ruin and distress. Nor were they in his mind at all necessary; six or seven shillings short annuity, would, he said, always prove as good a make-weight, and be attended with infinitely less fatal consequences to the community. After having been upon his legs an hour and a half, his Lordship said a few words respecting the two resolutions, both of which he read to the House, and declared that so far from conceiving that the resolutions called for objection, he should be anxiously solicitous, were he still at the head of the Treasury, to have such Resolutions passed. He paid the Duke of Portland very high compliments on his integrity, ability, and firmness. He said, he saw no occasion for a First Lord of the Treasury to be a great speaker in Parliament. Lord Godolphin, Lord Sutherland, and other most able Ministers, never said a word in Parliament, and yet they were great Ministers. For his own part he had rather hear a few short declaratory sentences of the intentions of such a man as the noble Duke, than any the finest piece of oratory that could be penned. He hoped therefore he should hear some such sentences that day. He added, that the more honest men were respected, the more for that reason they ought to be watched narrowly when they acted with others of suspicious character, for which reason he declared, he should narrowly watch the noble Duke and the present Chancellor of the Exchequer. After a variety of reasoning, his Lordship concluded with moving his resolution as follows:

"That it is the Opinion of this House, that all future Loans should be conducted in a manner which may best conduce to the reduction of the national debt, or which may, at least, not obstruct such a reduction, but rather manifest the intention of Government, to proceed in due time to such a measure."

The noble Earl then said, that he intended to move another resolution which he would now read to their Lordships, that they might be in the possession of all his meaning. The noble Earl read his second resolution, which was, "That it is the opinion of this House, that whenever it shall be thought expedient in negociating a public loan, to deal with individuals, and not on the foot of an open subscription, the whole sum

sum to be raised shall be borrowed of, or taken from such individuals, without reserve of any part for the future disposal of any Minister."

Earl Fitzwilliam.

Earl *Fitzwilliam*, differed entirely in opinion with the noble Earl, with respect to the censure he had endeavoured to throw on the negociators of the Loan; he admitted the terms were not so good as we might have expected would be made in time of peace, but when we adverted to the situation men in power were in, and the absolute necessity there was for their obtaining the money immediately: he could not think they had made so culpable an agreement;—they had been obliged to make that loan in a few days, and under a variety of unfavorable circumstances.—He followed the noble Lord through many of his calculations, and drew very different conclusions, to what had been just before made—the money-lenders, he observed, knew the necessity there was for an immediate supply; they knew how much would be wanted: for sixteen millions had been voted in the House of Commons, and only three had been provided for; they were therefore certain that twelve millions was the least that government could possibly want to raise—this, with a variety of other inconveniencies, the ministers had to contend with on their entering into office, made the monied men carry it with a high hand; and therefore he was of opinion, that they rather deserved the commendation than censure of their Lordships, for the terms on which they obtained the money. His Lordship said, that the price of the funds must necessarily be taken at the price they stood at on the day when the bargain was made, and that notwithstanding all the specious reasoning about the time-price, every man who knew any thing of the matter, knew the money-lenders would not listen to the idea of such a prospective value of the funds being made the basis of the bargain. Having reasoned upon this very ably, his Lordship shewed the fallacy of several of Lord Shelburne's arguments, especially with regard to a competition, which he agreed could it have been had, would have been a matter extremely desirable, but he reminded their Lordships that there must necessarily be two sets of bidders to make a competition, and the four gentlemen who had written a letter to the Chancellor of the Exchequer advising a competition, had only generally said, they would be one set, but without stating their terms, or in any way whatever enabling Government to take advantage of their advice, or to create an auction of the Loan. Nay, so far from it, that on the Friday, when the noble Lord at the head of the Ex-

chequer

chequer proposed terms lower than those offered by the money-lenders, though in a very trifle only, three of the letter-writers were in the room, and had not the spirit to accept the noble Lord's terms, or to offer others of their own. The Earl reasoned very ably in defence of the Loan, declaring, that considering the peculiar circumstances under which it had been made, if not so good as it might have been, under other circumstances, it was certainly such a one as his Majesty's present servants stood highly excusable for having made. His Lordship said, the two resolutions appeared to him to be, the one unnecessary, and the other highly improper. No man denied, that all Loans ought to be made, with an intention to proceed, in due time, to reduce the national debt. The present Loan had been made with that view, and as to the question whether creating a five per cent. fund, or raising upon the 3 per cents. was most adviseable? it was all mere matter of speculation and opinion. In his judgement, the mode adopted was the most practicable, and the most reasonable for the public. With regard to the second resolution, he should not scruple to give it his direct negative. But at present, he conceived, it was unnecessary for him to go much into either of the resolutions, because the Bill must be disposed of first, it having been ordered to be read a third time.

The Earl of Shelburne.

The Earl of *Shelburne* got up in reply to several points of the calculation, which the noble Earl had stated differently, and dwelt some time on the attention that ought to have been paid to the time-price, which on the average was two per cent more than what the terms had been closed at, which, together with the lottery tickets, discount, and premium, made the advantage to the subscribers, above seven and a quarter per cent.

Lord Stormont.

Lord *Stormont*, with the greatest submission to the opinion of the House, conceived their Lordships to be out of all order. The question then properly before them, was for the third reading of the Loan bill; it was the order of the day, and had been moved; with what propriety therefore they could have another question brought before them, and investigate it before they had got rid of the first, he was free to confess he was unable to determine—he knew of no other way there was for their Lordships to proceed, than by determining either to pass or postpone the present question, if they could possibly conceive that to be necessary, and then they might have a fair opportunity of investigating the resolution that

that had been proposed, as he could not suppose the noble Lord wished it to pass without; should he be right in his ideas of the order of the House, and which he submitted with all deference to their superior knowledge, in either case whether they should determine to proceed on the third reading of the loan-bill, or the noble Lord's motion, he should take the liberty to say a few words, but could not see how he was to speak to either, while they were thus jumbled together.

The Earl of Shelburne.

The Earl of *Shelburne* perceived he was rather out of order, in not having introduced his resolution previous to the motion for the order of the day; but it was far from his intention to take their Lordships by surprise; he certainly, as the noble Lord in the green ribband had observed, wished their Lordships to weigh the importance and necessity that there was for such a resolution; he had not the least idea of hurrying the house into any kind of resolution; if they thought proper, he had no objection to its lying on their Lordship's table for six weeks; but he did not perceive why, as it was then before them, it should not be proceeded on, or why the noble Viscount should so strenuously wish for that nice point of order being observed, which he trusted was not of any material consequence. But in regard to his being out of time with his motion, he appealed to the learned Lord on the woolsack, whether he had not mentioned to him, on his coming down to the House, what he intended to do, and declared, he had accidentally let the motion, for reading the order of the day, and the reading of that order, escape him. Whether the House would take advantage of such an accident, was for them to determine.

Lord Stormont.

Lord *Stormont* observed, that as the noble Lord did not assert that his resolution was by any means to influence their Lordships with respect to passing this loan bill, it could not possibly make any difference whether his motion was taken up before or after the fate of that should be determined; and therefore there was not the least reason why the rules of that House should be dispensed with, and the loan bill being properly before their Lordships, he certainly should be in favour of having that disposed of first.

Earl of Shelburne.

The Earl of *Shelburne* with some little warmth, desired the noble Viscount to suffer him to explain his own meaning. He had always reserved to himself a right of opposition to the third reading of the loan bill, provided his resolutions were rejected by the House, nor would he consent to the bill being

read

read a third time, till his resolutions were disposed of one way or another.

Lord Thurlow. Lord *Thurlow* said that it certainly was the most orderly way of proceeding to determine on the order of the day, that order having been moved for; but then it was at the same time clear, that his noble friend in the blue ribband had suffered that order of the day to be entered upon by mistake, not recollecting that his motion should have been made previous to it; but however, if the noble Viscount persisted in the forms being so strictly observed, it was still in his noble friend's power, with the indulgence of the House, to recover all by moving the order of the day to be adjourned for an hour; that would give him an opportunity to bring forward his resolution in its proper mode, and entirely unconnected with the order of the day.

Lord Bathurst. Earl *Bathurst* was fully convinced, the order of the day having been called for, and read by the clerk, that it would be totally contrary to the rules of that House, to enter upon any other business before that was properly adjusted. He admitted, that any of their Lordships had an undoubted right to move for that order being put off, and if this matter, which they had thought proper to bring forward, was of that material consequence that every thing should give way to it, why did they not move to adjourn the third reading till to-morrow, and enter fully upon this business at once? — They would then have plenty of time fairly to investigate the merits of it, and it would not have the appearance of being huddled on, as it had been at present.

Earl of Shelburne. The Earl of *Shelburne* by no means agreed that it was indifferent whether his motion was decided upon before or after the determination of the loan bill; it was connected with it; he had meant it as such, and as a proof his intentions were to have brought it on before the third reading of the bill, he had mentioned to the noble Lord on the woolsack, on his coming into the House, that he had something to say on the subject; his Lordship, on the order of the day being called for, had kindly intimated to him, that was the time for him to deliver his sentiments, if they went to oppose the reading of the bill; he had, however, neglected that moment, not supposing the noble Lords in administration would have endeavoured to have availed themselves of so trifling a circumstance; he certainly meant to take the sense of their Lordships upon this resolution, as a much more delicate method, than to directly oppose the bill; however, as the noble

Viscount seemed determined not to dispense with the regular forms of the House, he should move their Lordships, that the third reading of the loan bill should be adjourned for one hour.

Lord Stormont.

Lord *Stormont*, as the noble Lord acknowledged his motion was meant in effect to have some connection with the bill, said, for his own part, he had not the least objection to the last motion, and that he was very willing the noble Lord's resolution should be brought forward immediately.

Lord Thurlow.

Lord *Thurlow* had concluded from what fell from the noble Lord in the green ribband, on a former day, that he would on this day have informed the House what it was that had occasioned the delay of the loan, and what circumstances had made the present ministers conclude one on such bad terms; — he had intimated there was some such circumstance, but as yet he had been totally silent on that head; he nevertheless hoped the noble Viscount would give them some information, as for his own part, he confessed he had some curiosity to know.

Lord Stormont.

Lord *Stormont*, after expressing his surprize that a noble and learned Lord, who had with so much dignity on so many occasions supported and maintained the orders of the House, should now himself be so much out of order as to refer to what had passed on a former debate, repeated what the nature of his speech the other day had been, and said, so far from not chusing to meet the resolutions, he would not oppose the noble and learned Lord's motion, that the order for reading the bill a third time be adjourned for an hour.

Earl of Derby.

The Earl of *Derby* begged, before they put the question, the House would indulge him to say a few words; it was merely to reconcile what had fallen from the noble Lord in the blue ribband; in one part of the debate he had told their Lordships, that he did not wish to hurry them into any resolutions; that he had no wish to draw them precipitately to determine on his motion; that he had no objection to its lying on their Lordships' table for six weeks, and in another part of the debate, the noble Lord asserted that he meant it to be connected with the bill then before the House: now, what his Lordship wished to know was, whether the noble Lord had meant to say, that he had not the least objection to postponing the loan bill for six weeks, for so much, in his opinion, did what the noble Lord had said amount to; and yet he scarcely believed, that in the present situation of the country, he would be hardy enough to make such a proposition.

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The Earl of *Shelburne* said he only meant by its laying on their Lordships' table for six weeks, that he should esteem it an honour for it to lie on their Lordships' table, provided they did not think proper otherwise to dispose of it.

Earl of Shelburne.

The question was then put for postponing the order of the day for one hour, which being agreed to, Lord Shelburne again moved his resolution, when

Lord *Stormont* observed, that he had given his consent for adjourning the order of the day, concluding the noble Lord in the blue ribband would have brought them on together; but however, as his Lordship had admitted the one was meant to be connected with the other, he trusted he should not be charged with being out of order, if he considered them so, and spoke of the money-bill, although it was not in fact before the House: he would not attempt to follow the noble Lord in those nice calculations which he had stated, and accurately, he had not the least doubt; nor would he attempt to argue determinately upon the method proper to be used with the monied men in treating for a loan; he had never been concerned in the treating for one, had never been present at the conclusion, and of course could know very little more on the subject than any individual in the kingdom, merely with respect to the advantage or disadvantage of the mode of treating for a loan, he should therefore confine himself to state the circumstances under which this loan had been procured; in the course of which he should take an opportunity of mentioning what he conceived to be the true cause of many of the disadvantages that ministers had to combat with, in compliance with the intimation of a noble and learned Lord, notwithstanding he was aware how truly disorderly it was for a member of that House to allude in one debate to what had passed in another. It ought to be remembered that the present administration did not come into power until the 2d of April, and that the exigencies of the State were such, that they were compelled to settle the terms of the loan within ten days after, and of course were glad to make it on the best terms they could — a competition had been mentioned as the best mode of raising the money; he believed it was; it had been tried by a noble Lord in the other House, and the public had reaped the advantage; but in this case there was not time to raise that competition; it was asserted, a letter had been sent to the Treasury, offering one; here he spoke from information, but which information he perfectly relied on; he averred it

Lord Stormont.

was not, in fact, any such thing; for the letter only mentioned a competition, without making any specific offer of one, or stating any terms upon which the authors, as one set of bidders, would agree to take it; therefore it amounted to nothing; — as the negociators could not say they had received an offer which was in any shape to affect those with whom the treaty was on foot: he had ever understood that in these transactions the money was always rated at the then price of the stocks in which they meant to purchase; this had been adhered to in the present treaty, but then they rose the next day, and the day after, and it was certainly a very enormous crime in the minister not to foresee it; with respect to a lottery, it was a douceur that the money lenders had been long accustomed to, and they would not have been prevailed on to treat without that or some similar advantage; and provided there had been an offer made of any new mode, they would have taken care not to hazard the new invention themselves, but would have made the public pay for their trying whether it was an advantageous scheme or not. — While there were lotteries in Flanders, France, and Holland, it would be impossible to check the spirit of gambling entirely; and if there was a considerable sum to be made by that vice, why should not this kingdom reap the advantage as well as any foreign state, especially as by the late regulations, the greatest of its evils had been prevented; he would not, nor did he mean to say, the present was a good loan; he only meant to aver and contend, that it was as good a one as could possibly be expected from the circumstances under which it had been negociated. It had been asked what had occasioned those difficulties; he would wish to know why the late administration had not brought it forward, as it was a notorious fact, that an early loan was always the most advantageous to this kingdom? He did not say they should have brought it on in November, but they, according to their own accounts, had a glorious time to bring it forward; a time when the kingdom at large was elated, for what kingdom is not elated at the return of peace? — That was the time when they should have treated for their loan, when the nation, flushed with peace, had not yet considered the terms on which they were to have it; when the three per cent. were up to seventy, and before reflection took place, and they saw at what an expence they had purchased that peace, and with what a lavish hand their possessions had been dealt away; they had sufficient time from the 25th of January,

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when the preliminary articles arrived, to the 17th of February, when the vote passed against them in another House: even after this they ought to have brought it forward, if they had chosen to remain in office. A noble Lord in the other House had done so when he found it necessary to retire from his Majesty's service; and it might perhaps have been much better for this country had they followed that noble Lord in that as well as in many other circumstances. — He had heard some people talk of an interregnum; but he could not harbour so bad an opinion of the noble Lord in the blue ribband as to suppose they did not act to the last moment of their remaining in office with the same integrity they did at first, and that they endeavoured to make every thing as smooth and easy as lay in their power for their successors.— That those noble Lords should now be the first to raise obstacles gave him some little degree of surprise, as they must be fully convinced of the almost insurmountable difficulties the present ministers had to contend with; they must know it much better than he had it in his power to explain; he, however, knew there was too much candour and integrity in that House, to be led astray by the most powerful rhetoric, or flowery eloquence; while it could be answered by plain matters of fact, integrity of intention, and fairness of proceeding; upon these principles he did not doubt the present motion would meet a negative, as it went to answer no good purpose, but merely to start obstacles in the proceedings of Government, and to cast a distant reflection on the negociators of the loan.

Lord Thurlow.

Lord *Thurlow* entered pretty largely into a defence of the late administration, and endeavoured to ridicule the idea of their being charged with neglect, for not bringing forward the loan.

The Duke of Portland.

The Duke of *Portland* found it necessary to rise, in order to clear up some circumstances with respect to his treating for the loan in the manner he had done, and to state the current prices of the stocks, when the bargain had been settled. The noble Earl had paid him some compliments on his integrity, which, to be sure, were very flattering; but he assured the noble Earl that he did not expect that he would receive any peculiar credit for the two or three sentences he should at any time deliver in that House, unless these sentences should contain plain and stubborn facts. He said that when they came into office there was but 400,000l. in the Exchequer, and there were claims on the Treasury for services

services to the amount of 3,400,000l. Besides this, the navy was in a most mutinous condition, and called to be paid off. It was incumbent on them to answer the demands which were made, and to do this the loan must be made without delay. The noble Lord had said that they had the benefit of secrecy as to the sum to be borrowed. This was impossible, for the money-lenders all knew, that there were services voted to the amount of 16,000,000l. and that only the land and malt, and some other trifles were voted to answer them. He said they had the advantage of competition. In this he was misinformed. A letter had been written to the Treasury, proposing a competition; but no offer was made, no specific proposition was sent in, and nothing which could justify the ministers in keeping off from the bargain which they made. He charged his predecessors with blameable delay, either in retaining their offices after they had lost the support of Parliament, or in not discharging the duties of office while they remained in.

Lord Keppel.

Lord *Keppel* corroborated the noble Duke in what regarded the mutinies in the navy, and the necessity that there was for paying off the ships without the loss of a moment.

Lord Sydney.

Lord *Sydney* justified himself and colleagues against the charge of being accessary to the delay complained of. He attributed it to dissentions among those who were now in office; and he was proceeding to state a number of rumours, when

Earl Ravensworth.

Earl *Ravensworth* called him to order, and said they did not come to hear stories about their cabals, and struggles, and goings out and comings in.

The Earl of Derby.

The Earl of *Derby* warmly opposed the motions, and said that nothing could be more impolitic and absurd than the propositions.

Lord Loughborough.

Lord *Loughborough* questioned the good sense of their coming to resolutions respecting the management of loans, where no loans could originate, and where none could, in fact, be altered or amended. The good sense, or even the common sense of the first proposition was still more doubtful; he did not know how to decypher it, or how to make out what it wished for. It had "the true no meaning, which puzzled more than wit." For how was a loan to contribute to the reduction of the national debt? A loan was calculated in its nature to increase the debt by the exact sum which was borrowed; but it could not make it less. The noble Lord played with this idea, and then came to the next passage,

sage, in the motion, "or that at least the inclination of the minister shall be manifested to that effect." He desired to know how it was possible that a minister could, by the mere act of a loan, express his wishes and intentions of reducing the national debt. He might by words in the preamble of the statute talk about his willingness; but he had no conception of the noble Earl's meaning, when he said that the action of borrowing money should in itself be a reduction of debt, or shew a tendency thereto.

Lord Thurlow. Lord *Thurlow* attacked Lord Loughborough's mode of treating the motion with some severity. He contended against the present loan, as a bargain worse for the public than it ought to have been, and worse than it might have been; for he said, he knew that a competition was positively offered. His Lordship said he had a story to relate whenever he chose to tell it, and he had authority to relate it from the party whence he had it, but he would not then go into it. He would barely say, that he had been assured that when a former loan of two millions was in agitation, a gentleman every way responsible offered to take the whole of it at an eighth cheaper than the bargain was afterwards made, but that the minister pulled a list out of his pocket, and insisted upon a reserve for such of his friends, whose names were on that list, whereupon the gentleman would have nothing to do with the loan, and the public lost an eighth per cent. in order to oblige the minister's friends. His Lordship advised the noble Duke to be upon his guard. Strange stories, he said, were in circulation, relative to the present loan, several of which he recited. His Lordship complained of having been called the avowed advocate of influence, appealed to his conduct respecting the contractors bill, and declared, it was his opinion, that the minister ought to be hanged who corruptly distributed the loan with a view to influence.

Earl of Derby. The Earl of *Derby* expressed his surprise, that the noble and learned Lord should now, for the first time, have found so much fault with a mode of making loans, which had obtained for years without his starting a single objection to it. His Lordship retorted upon Lord Sydney for his charge of the interregnum upon the present administration with great success, and said, the last administration's having lost the confidence of the House of Commons, as the noble Lord in the blue ribband had confessed, had caused the interregnum. He declared, he wished to know, how an enquiry of such a

delicate

delicate nature could be set on foot. He called upon Lord Shelburne to shew how the plausible promises in the King's speech had been fulfilled, before he urged the noble Duke, and his friends, who had been in office but a fortnight, to produce the acts of their administration, in proof of their good intentions.

The Earl of Shelburne. The Earl of *Shelburne* declared he would readily join with the noble Earl who spoke last, in an address to the Throne, to know who had been the cause of the strange state in which the country had remained for six weeks. His Lordship said with regard to the argument that he had lost the confidence of the House of Commons, he did not believe he had lost it. But, says the noble Lord, let the House of Commons beware, or they will lose my confidence.—He said again, with regard to himself, he had gone out of office holding up his head higher than those who came in. He thanked God, he remained independent of all parties, With regard to the promises in the King's speech, they had begun to be fulfilled; a Custom-house bill, a very essential reform, had been presented to the House of Commons; other great and essential plans of reform and œconomy were ripening, and would have soon been matured, had he and his friends continued in office. Let the noble Earl enquire at the Treasury, he would learn there, that great reforms were in preparation when he was obliged to quit his situation. The Admiralty department was, he must own, the least active of any great department, with a view to reform. He declared he meant no attack, but such was the fact. With regard to the question so often put of "Why did not the last administration make the loan?" The truth was, the loan was to have been brought in, the very next week after the resolution upon the peace passed the House of Commons. The terms intended were far different from those now adopted. He could assure the noble Lords no reserve was to have been in the case. The whole of it was to have been transacted with secrecy, and one idea upon which it went, was to have given it chiefly among the old stock-holders, as a recompence for their losses. With regard to the resolutions, his Lordship said, let the House adopt them or reject them, he was perfectly indifferent, nonsensical as they had appeared to a noble and learned Lord; but he was content to let them rest on their own bottom.

Ld. Keppel. Lord *Keppel* observed, that the noble Lord had said he meant not to attack; but certainly, what he had said, was

very

very like an attack. He bid the noble Earl recollect that he was at the head of the Admiralty while we were engaged in a war; his attention therefore had been directed to the greater objects of actual and immediate service, and not plans of reform, that could only be attended to in times of peace. His Lordship complained of the noble Earl having endeavoured insidiously, to interfere with the office in a manner extremely inconvenient, and as he thought impolitic, for it tended most unseasonably, to diminish the influence and authority of the Admiralty Board, over the subordinate boards, by making them accountable to the Treasury.

The Earl of Shelburne.

The Earl of *Shelburne* said, Lord Howe had expressly come into office on an agreement, to push the reform of his department, with the same vigour, that had distinguished the noble Duke's Ordnance Office reform. His Lordship added, that Lord Howe, when he came home from Gibraltar, complained of the bad discipline of the fleet, insomuch that the noble Viscount had declared the peace absolutely necessary; since he did not think it safe for a man to trust himself with a fleet, while such a total want of discipline prevailed.

Ld. Keppel.

Lord *Keppel* said, Lord Howe neither directly nor indirectly made any such complaint to him, and as to discipline, that lay not with him, but with the commander of a fleet; at least he should have thought so, had he been at the head of the Gibraltar fleet; but as the noble Viscount was absent, it would, his Lordship thought, be better to say no more upon the subject till he could be there to answer for himself. His Lordship then alluded to some conversation that had passed between Lord Shelburne and himself in private, and charged the noble Earl with having interfered with his office through clerks, unknown to him, and in an underhand manner.

The Earl of Shelburne.

The Earl of *Shelburne* said, he would answer the charge with one word. It was false. [A cry of Order! Order!] He declared, he meant not to pronounce what the noble Viscount had said, as from himself was false, but that the information from which he had spoken, was a falsity. He scorned any thing like underhand work as much as the noble Viscount. If the noble Viscount alluded to the Victualling Office, the abuses in that office were gross and scandalous, and called loudly for reform. If he meant the Navy Office, that was necessarily and naturally connected with the Board of Treasury; one of its officers, a respectable and worthy character, having frequently attended him. With regard

to his attack on the noble Viscount near him, be that as it might, the noble Viscount seemed determined to make a most direct attack upon him [Lord Keppel said from his seat, With all my heart.] His Lordship farther said, that for some months before Lord Keppel resigned, they had not been upon speaking terms, and that all the time he knew not whether he was to have the noble Viscount's support or not, or whether he would or would not resign; but during the time the noble Viscount had confessed, he had borne himself in a fair and manly way towards him, and not smiled, and smiled, and been a villain.

Lord *Keppel* was rising again but the House called to order.

The Earl of Tankerville

The Earl of *Tankerville*, in answer to what Lord Derby had said, on the ground of the promises in the King's speech not having been kept, declared a very necessary and essential reform in the Post Office had been planned, and began to be carried into execution. That he had left it in possession of his worthy colleague in office, and hoped it would be completed, as it was highly necessary.

The Earl of Derby.

The Earl of *Derby* said a few words in reply, and the two resolutions were negatived without a division.

The loan bill was then read a third time, and passed.

May 6.

The order of the day being read for going into a committee upon the American trade bill, the House resolved itself accordingly, and on the reading the first clause of the bill, in that part of it which mentions, "that no manifest, certificate, or other document whatsoever should be required for any ship or vessel belonging to the said United States of America."——Lord Walsingham here moved, that to these last words the following words should be added, "any of them, or to any of the inhabitants thereof."

Ld Loughborough.

Lord *Loughborough* wished the noble Lord would assign his reasons for this amendment, as in his conception the style of the preamble as it then stood, appeared full and intelligible. One is at no loss to comprehend what is meant by the ships of the States of Holland. Under that general description the ships of every inhabitant of those States, and of each of them is most certainly comprehended; and why any distinction should be made between the States of Holland, and the States of America, his Lordship could not imagine. What was so clearly understood of the one, might undoubtedly

edly be as clearly underſtood of the other. And he thought the amendment unneceſſary; he ſhould therefore negative it.

Lord Thurlow. Lord *Thurlow* could not agree with the laſt noble Lord, as to that ſameneſs of ſtyle which would equally apply to the United States of Holland and thoſe of America (as they were called.) He had lately read an account of the latter country, of ſome conſiderable authority, which ſtated the government of it to be totally unſettled; and that the intention of each Province ſeemed to be the eſtabliſhment of a diſtinct independent ſovereign ſtate. If this, then, were really the caſe, he was of opinion, that the amendment would be highly neceſſary and proper, ſince, according to the preſent deſcription, the ſhips of the States in their fœderal capacity only, and not in their ſeparate capacity, could have any cognizance taken of them.

Ld. Loughborough. Lord *Loughborough* replied, that as the Preliminary Articles had already acknowledged and deſcribed the powers of America by the title of the United States, it would be needleſs to ſeek for other language more plainly declarative of them.

Lord Thurlow. Lord *Thurlow* again roſe, and obſerved, that in all caſes where the poſſibility of a doubt could be avoided, it ought certainly to be avoided by the legiſlature. The words of the amendment could do no harm, and might, in all probability, be attended with good.

Lord Stormont. Lord *Stormont* ſaid a few words as to the uſeleſſneſs of the amendment, adverting, as Lord Loughborough had done, to Holland. He ſpoke alſo of the ſimilarity of the Cantons of Switzerland, and then negatived the motion.

It was now put and rejected.

Lord Thurlow. Lord *Thurlow* hereupon remarked, that in his mind the clauſe ſtill demanded amendment. It ſaid that no document whatever ſhould be required from an American veſſel. Now a cocket, he was well aſſured, was a document; and a cocket was indiſpenſably neceſſary to the clearance of a ſhip; it was the tranſire—the fit paſs from the Cuſtom Houſe, and therefore their Lordſhips would ſee the neceſſity, either of altering the clauſe totally, or of excepting cocket out of the general rule reſpecting document.

Ld. Loughborough. Lord *Loughborough* ſaid, he had been particularly attentive to the wording of this very part of the clauſe, on which he had conſulted Mr. Dyton, the Solicitor to the Cuſtom Houſe, who drew it. No man could be a better judge of the propriety of it than he was, from his vaſt experience in

Custom-house business. Cockets, as described by that gentleman, were but of two sorts; the one regarded vessels going coast-ways, which could have no application to the present bill. The other was a sort of acknowledgment or receipt given to the merchant exporter, for the duty of five per cent, on the production of which, after the due completion of his exportation, he was entitled to a draw-back of two and an half per cent. Now, as in all other affairs where money was paid and received, it would be an idle thing to force a man to take a receipt, so it would in the present case. Prudence would suggest that to the party; it was therefore quite unnecessary to make the amendment.

Lord Thurlow.

Lord *Thurlow* still adhered to his idea of a cocket, which he said he had good authority for; and, with respect to Mr. Dyton's knowledge, it might be, for aught he knew, such as the noble Lord stated it; however, he could see no reason for their Lordships to pin their faith on his sleeve, or on the sleeve of any man. Their Lordships own understanding ought and would direct them.

Ld. Loughborough.

Lord *Loughborough* once more got up to inform the House, that he had not confined his enquiries to Mr. Dyton, but had looked into the most accurate account that had been written on matters of that nature, he meant Baldwin's book of the customs; and he could there find under the article of cocket nothing that could make him doubt the intelligence of Mr. Dyton.

Lord Thurlow.

Lord *Thurlow* said, it would be extraordinary if he had; for nothing is mentioned in books of that kind but mere rates, matters paid for. The document he spoke of was not of that description: but he had done his duty in giving the warning; it was in their Lordships' discretion to use it as they thought fit.

The motion was put, and negatived.

Lord Walsingham.

On reading the second clause, Lord *Walsingham* rose, declaring that he had not the smallest idea of objecting to the principle of the bill, or retarding its progress a moment. But he could not forbear observing, that in the present unsettled state of the American government, it would have been better, to have left the King in Council at his own discretion, as to what regarded the object of the bill, until the way could be more clearly discerned for a durable law. And in truth, that seemed to be the intent of the framer of this bill, who gave that discretion to his Majesty in the last clause.

Lord

Lord *Loughborough* said, it was intended to make some material alterations in the bill, before its last reading.

Lord *Thurlow* declared, that he would, on that account, decline offering any farther amendment.

Earl *Bathurst* said, that it was undoubtedly the intent of Parliament, that the discretionary power granted to his Majesty, should ceafe in every refpect on the expiration of the bill; he therefore moved, that an amendment to that effect, fhould be inferted in it, and that the duration of the bill fhould be only till the 20th of December, 1783.

This amendment was agreed to, as well as another of no great moment. After which the bill was read, and ordered to be reported the next day.

Previous to the reading of the order of the day, Lord Thurlow, Lord Mansfield, and Lord Sydney, fpoke as to the admiffion of a letter offered in evidence at the bar of the Houfe, upon a divorce bill, when it was clearly laid down, that no confeffion, either of a wife or hufband, of the commiffion of adultery, unaccompanied by facts, fhould be admitted as evidence of guilt, and that the cafe was no exception to that general rule, the bill was confequently rejected.

May 9.

The Houfe having heard counfel upon an important writ of error, The Right Reverend Robert, Bifhop of London, plaintiff: againft Lewis Difney Ffytche, Efquire, defendant; proceeded to argue upon the cafe. As it involved a very great national queftion, and gave rife to a decifion, which will not only be a precedent, but will ferve to change the practice in regard to refignation bonds, we fhall make the reader acquainted with the matter by the following ftatement; which is the cafe of the plaintiff in error.

That the rectory of the parifh church of Woodham Walter in Effex, in the diocefe of London, became vacant in or about May 1780, by the death of Foote Gower; and the Bifhop of London, plaintiff in error, having, at the requeft of the defendant in error, Lewis Difney Ffytche, Efq; the patron, waved the advantage of lapfe, it was not till the 2d of January 1781, that Mr. Ffytche prefented his clerk, the Reverend John Eyre, to the Bifhop for inftitution.

That the Bifhop being informed, that the faid John Eyre had given his patron a bond, in a large penalty, to refign the faid rectory at any time upon his requeft; and the faid

John

John Eyre acknowledging that he had given such a bond, the Bishop refused to institute him to the living.

The defendant in error thereupon brought a writ of *Quare Impedit*, in the court of Common Pleas, and in Easter term 1781, delivered a declaration, in which he stated, that one Thomas Ffytche deceased, was seized of the advowson of the said church in gross by itself, as of fee and right, and being so seized on the 24th of April 1769, presented to the said Church, then being vacant, Foote Gower, Clerk, who on that presentation was admitted, instituted, and inducted into the same: And that the said Thomas Ffytche, on the 10th February 1777, died, seized of his said estate in the said Advowson, upon whose death it descended to Elizabeth Ffytche then and still the wife of the defendant in Error, and daughter and only child of William Ffytche deceased, the brother of the said Thomas Ffytche, as niece and heir at law of the said Thomas Ffytche, whereby the defendant in error, and Elizabeth his wife, in her right, became seized of the advowson of the said church in gross; and being so seized on the 26th May 1780, the said church became vacant by the death of the said Foote Gower, and is yet vacant; by reason whereof it belonged, and now belongs, to the defendant in error, in right of the said Elizabeth his wife, now living, to present a fit person to the said church; yet the plaintiff in error, the Bishop of London, hinders them from presenting a fit person to the said church, to his damage of 200l.

To this declaration the Bishop pleaded two pleas; in the first of which he says, that the defendant in error ought not to have had or maintained his aforesaid action against him, because the said church of Woodham Walter is within his diocese of London, and a Benefice with cure of souls; and that the said church having so become vacant by the death of the said Foote Gower, as in the said declaration is mentioned, afterwards and whilst the same was and continued vacant, and before the making of the presentation after mentioned (to wit) on the 2d day of January 1781, at Woodham Walter aforesaid, it was corruptly, simoniacally, and unlawfully, and against the form of the statute in that case made and provided, agreed by and between the defendant in error and one John Eyre, that he the defendant in error should present the said John Eyre, his clerk, to the said church so being vacant; and that the said John Eyre should in consideration thereof seal, and as his act and deed deliver,

unto the defendant in error, a certain writing obligatory, whereby he the said John Eyre should become bound to the said defendant in the penal sum of three thousand pounds, with a condition there-under written, that in case the said John Eyre should be admitted, instituted, and inducted into the said rectory and parish church, upon the presentation of the defendant in error, then if he the said John Eyre should and did at any time then after, upon the request of the said defendant, his heirs or assigns, absolutely resign the said rectory or parish church of Woodham Walter, into the hands of the Bishop of London for the time being, and should and did give notice of such resignation to the said defendant, his heirs or assigns, and also should and did procure such resignation to be accepted, so that the said rectory and parish church might thereby become vacant, and the said defendant in error, his heirs or assigns, be at liberty to present anew thereto, then that the said writing obligatory should be void; but if default should happen to be made in the performance of all, or any of the matters aforesaid, should be and remain in full force and virtue; and that the said agreement being so made, the said defendant in error did afterwards, on the same day and year last aforesaid, at Woodham Walter aforesaid, in pursuance thereof, corruptly, simoniacally, and unlawfully, and against the form of the Statute, &c. present the said John Eyre, his clerk, to the said Bishop, to be admitted, instituted, and inducted into the said rectory and parish church of Woodham Walter; and the said John Eyre, did also, in pursuance of that agreement, afterwards, on the same day and year last aforesaid, at Woodham Walter aforesaid, corruptly, simoniacally, and unlawfully, and against the form of the statute, &c. seal, and, as his act and deed, deliver to the defendant in error, a certain writing obligatory of him the said John Eyre, whereby he the said John Eyre did become bound to the said defendant, in the said penal sum of three thousand pounds, and with such condition there-under written for making void the same, as above mentioned, to have been in that behalf agreed upon, by and between the said John Eyre and the said defendant, and which said writing obligatory, with such condition there-under written, as aforesaid, the defendant in error then and there corruptly, simoniacally, unlawfully, against the form of the statute, &c. accepted of and from the said John Eyre, by means of which said premises, and by force of the statute, the said presentation of the said John Eyre by the said defendant,

dant, so made as aforesaid, became, and was, and is, altogether void in law, and the said plaintiff in error, by reason thereof did not, nor could, admit, institute, or induct, nor by law ought to have admitted, instituted, or inducted, nor yet by law ought to admit, institute, or induct, the said John Eyre into the said church, upon or by virtue of that presentation. And in the second plea says, that the defendant in error ought not to have or maintain his aforesaid action against him, because that the said church of Woodham Walter is within his diocese of London, and that he hath not, nor claims to have any thing in the same church, or in the advowson thereof, but the admission, institution, and induction of persons to that church, and what else to him does of right belong and appertain, as being the ordinary of that church; and that the said church is a benefice with cure of souls, and that the same having so become vacant by the death of the said Foote Gower, as in the declaration is mentioned, afterwards, and whilst the same was and continued so vacant, (to wit) on the said 2d day of January, 1781, it was for the purpose of investing the defendant in error with an undue influence, power, and controul over the said John Eyre, as rector of the said rectory and parish church of Woodham Walter, in case the said John Eyre should, upon such presentation to be made by him the said defendant, as after mentioned, be admitted, instituted, and inducted into the same, agreed by and between the defendant in error and the said John Eyre: That he the said defendant should present the said John Eyre, his clerk, to that church being so vacant as aforesaid, and that the said John Eyre should, in consideration of such presentation, seal, and as his act and deed, deliver to the said defendant in error, a certain writing obligatory, whereby the said John Eyre should become bound to the said defendant in the penal sum of three thousand pounds, with a condition there-under written. [Here follows a recital of the same condition as has been set forth in the former plea.] And that the said agreement being so made as aforesaid, the defendant in error did afterwards, on the same day and year last aforesaid, at Woodham Walter aforesaid, in pursuance of that agreement, present the said John Eyre, his clerk, to the said Bishop to be admitted, instituted, and inducted into the said rectory and parish church of Woodham Walter; and that the said John Eyre did also, in pursuance of that agreement afterwards, on the same day and year last aforesaid, at Woodham Walter aforesaid, seal, and

and as his act and deed, deliver to the defendant in error, a certain writing obligatory of him the said John Eyre, whereby he became bound to the said defendant in the said penal sum of three thousand pounds, and with such very condition there-under written, for making void the same, as above mentioned to have been in that behalf particularly agreed upon by and between the said John Eyre and the said defendant, and which said writing obligatory, with such condition there-under written as aforesaid, the defendant in error then and there accepted of and from the said John Eyre: And that upon such presentation of the said John Eyre to him the plaintiff in error for the purpose aforesaid made, the said plaintiff did then and there, as ordinary of the said church, duly enquire concerning the fitness of the said John Eyre to be by him admitted, instituted, and inducted into the said rectory and parish church; and that upon such inquiry in that behalf made, the plaintiff in error did fully discover and find out, that the said John Eyre had sealed, and as his act and deed delivered to the defendant in error, such writing obligatory as aforesaid, made in such penal sum, and with such condition thereunder written, for making void the same as above mentioned; and that by means thereof, the defendant in error would have acquired and had an undue influence, power, and controul over the said John Eyre, as rector of the rectory and parish church of Woodham Walter aforesaid, if the plaintiff in error had upon such presentation admitted, instituted, and inducted the said John Eyre into the rectory and parish church of Woodham Walter aforesaid, and by reason of the premises, the said John Eyre then and there became, and was, an unfit person to be by the plaintiff in error admitted, instituted, and inducted into the said rectory and parish church of Woodham Walter, upon or by virtue of that presentation, wherefore the said Bishop did then and there as ordinary of that church, and as he lawfully might, and of right ought, wholly refuse to admit, institute, or induct the said John Eyre into the said church so being vacant as aforesaid.

To the first plea, the defendant in error demurred generally, and also demurred to the second plea, and assigned for causes of demurrer to that plea, that there is no specification of the undue influence, or power, or controul mentioned in the said second plea, with which the defendant in error was purposed to be invested over the said John Eyre as rector of the said rectory, to which the said defendant in error

could give any anſwer, or upon which a proper iſſue could be joined to be tried by a jury: And alſo, that it is not in that plea alledged, how and in what manner the ſaid John Eyre was or did become a perſon unfit to be admitted, inſtituted, and inducted into the ſaid rectory and pariſh church, ſo that any iſſue could be taken upon ſuch allegation of his unfitneſs.

The Biſhop joined in demurrer.

In Hilary term 1782, the Court of Common Pleas gave judgment for the defendant in error upon both pleas.

Upon this judgment the Biſhop brought a writ of error in the Court of King's Bench, and aſſigned the common errors, and upon argument in Michaelmas term 1782, the judgment of the Court of Common Pleas was affirmed.

Plaintiff in error has brought his writ of error before your Lordſhips, and humbly hopes the ſaid judgment will be reverſed for the following (amongſt other) reaſons:

I. Becauſe although there are ſeveral adjudged caſes upon the ſubject of general bonds of reſignation, none of them have ariſen in the ſame form, or between parties acting in the ſame capacity, and under circumſtances ſimilar to the preſent; and therefore they ought not to be conſidered as precedents by which this caſe is to be determined.

II. Becauſe the Biſhop, or Ordinary, is authorized by law to judge, in the firſt inſtance, of the fitneſs or unfitneſs of the perſon preſented to him for inſtitution; and the Biſhop of London has in this inſtance exerciſed his authority according to law.

III. Becauſe it is in the power of the patron, by means of a general bond, to eſtabliſh two modes of ſelling a vacant living; which is ſimony, either of which are equally certain and infallible: 1ſt, The parties may make the penalty in the bond adequate to the price of the living; the preſentee when inſtituted, may refuſe to ſign, and pay the penalty without ſuit: or may make known the execution of the bond, and then tender reſignation to the Biſhop, which the Biſhop under thoſe circumſtances will probably refuſe; upon his refuſal the bond may be put in ſuit; and thus alſo, by a circuity, the penalty may be paid, as the price of the living.

The ſecond mode of ſelling a living which is vacant, through the medium of a general bond of reſignation,

is equally obvious and practicable; the penalty of the bond of resignation may be made excessive, much above the real value of the living; the patron may, during the incumbency of the presentee, who executes the bond to resign, sell the next turn or right of presentation, and at an advanced price, and after such sale require the incumbent to resign in terms of his bond. By this means the first presentation is fictitious, and the sale of the second presentation, though made under the pretence of selling a right of presentation to a full benefice, is in reality the sale of a vacant living.

IV. Because a general bond to resign puts the person who enters into such bond under the power of the lay patron, instead of being under the authority of the bishop, to whom he swears canonical obedience, and whom by law he is obliged to obey, and is thus contrary to good policy, by creating an influence which tends to subvert ecclesiastical discipline and subordination.

V. Because general bonds of resignation are contrary to law, by altering the tenure of the office of a beneficed clergyman; for every benefice being an office for life, the patron can grant it for life only: He cannot grant it for years; he cannot grant it at the will of himself, for such grant in direct terms would be void, as contrary to the very tenure of the office; where there is a general bond of resignation entered into, the same alteration of the tenure is effected by circuity too here: the patron grants, and the presentee accepts, at the will of the patron, that benefice, which the law intends to be conferred and holden for life.

VI. Because although a court of equity will grant relief in case the patron makes an improper use of a general bond to resign, yet from the extreme difficulty of discovering the real purpose for which they are used, it can seldom be possible to procure such relief, or to guard by that means against the bad consequences that follow from such bonds being tolerated. The bad purpose not being discovered, cannot be prevented but by a solemn decision, that general bonds of resignation are illegal.

VII. Because a general bond of resignation puts it in a great measure in the patron's power to convert a part of the profits of the living to his own use; and absolutely puts it in the power of patron and incumbent together to make such partition of them as they can agree upon, whereby the revenues of the church may be alienated.

VIII. Because a general bond of resignation is, an assurance of profit or benefit to the patron, and therefore contrary to the statute 31 Eliz. c. 6. and inconsistent with the oath of Simony.

J. MANSFIELD.
EDWARD LAW.
WILLIAM ADAM.

The counsel had finished, and the order of the day being read on the cause,

Lord Thurlow

Lord Thurlow rose, and in a most able and well-pointed speech, entered largely into the wide space this question comprehended, and the consequence a conclusive decision would be to a numerous part of this kingdom, but as it principally turned on a variety of cases that had been determined in the courts below, and researches into particular niceties and points in law, we find ourselves incapable to follow him with any hope of doing justice to so comprehensive and learned an investigation—He considered the appeal in every point of view, and for a number of reasons which he started, could not but condemn the idea of a clergyman's giving a bond to his patron for any consideration, on his being presented to a living: among many other, he supposed the patron to differ in some points of religion with the established church; and with a view only of having those points omitted where he had a right of presentation, he would oblige the incumbent, before he was in possession of that living, to enter into a resignation bond; by this means he was entirely subject to the patron's will, and of course, obliged to acquiesce in his requisitions; and for the doing of which the bishop of the diocese had likewise an undoubted right to dispossess him, if the incumbent continued in the doctrine, contrary to the injunction of his patron; and even here, admitting the bond so given, not to come within the charge of simony, still the patron could undoubtedly sue for the penalty of the bond on default of a resignation, and even come upon the tythes and emoluments of that living, for the recovery of the same: the patron he considered as nothing more than a trustee for the public, to dispose of the living; and that those livings should not be improperly bestowed, it was very requisite there should be a right somewhere to examine into the merits of the presented, and this he thought very justly vested in the bishoprics, but the ecclesiastical law went even farther than this, for there was still a check over these, by an appeal to the metropolitan; so that it was not in the power

power of any bishop to reject a person, when presented by the patron, unless he was destitute of the qualifications necessary for the charge he was to be entrusted with. His Lordship mentioned a number of other similar cases, and urged a variety of judicious remarks to illustrate the impropriety of such bonds being considered as legal, and to defend the right reverend bishop for having in this case refused to admit the clerk presented by Mr. Ffytche, as he had grounds to suppose such a bond had actually been given, and that they refused to prove the contrary; but as the decision in a case of this nature was of so material a consequence, his Lordship wished that House would consider it on the most copious grounds, and suffer him, the judges being present, to take the opinion of that learned body upon a few questions he had drawn up for that purpose, and which he hoped would prove sufficient to render every doubt that had hitherto arose in cases of this nature, totally impossible in future:—his Lordship then concluded by moving his questions to the judges, which were as follow:

1. "Whether an agreement made between the incumbent on a benefice with the cure of souls, and the patron thereof, whereby such incumbent undertakes to devoid the said benefice, at the request of such patron, be not an agreement for a benefit to the said patron?

2. "Whether if a patron shall present any parson to any benefice with cure of souls for or by reason of any such agreement, such presentation will not be void?

3. "Whether a bond given by the incumbent on a benefice with cure of souls to the patron thereof in the sum of 3000l. defeasible only by the said incumbent devoiding the said benefice at the request of the said patron, whether the value of the incumbency be greater or less than the said sum of 3000l. be not a bond for securing a benefit to the said patron?

4. "Whether if a patron shall present any parson to any benefice with cure of souls, for or by reason of any such bond, such presentation will not be void?

5. "Whether the ordinary of a diocese wherein any benefice with cure of souls lies, be compelled in law to accept the resignation of the incumbent thereof, in case where the resignation should appear not to be spontaneous, but at the instance of another, and under the coercion of a bond to pay money in case of a neglect or refusal to resign?

6. "Whether

6. "Whether a bond given by an incumbent on a benefice with cure of souls to the patron thereof in the sum of 3000l. defeasible only by such act, as afterwards to be done by the ordinary, be not a bond for the benefit of the said patron, in respect to the contingency which such incumbent cannot controul?

7. "Whether, if a patron shall present any parson to any benefice with cure of souls, for or by reason of any such last-mentioned bonds, such presentation will not be void?

8. "Whether the unfitness of the defendant in error in the second plea mentioned, be alledged with sufficient certainty?

9. "Whether the said plea be sufficient in law to bar the defendant in error from maintaining his action?

10. "Whether the unfitness of the said plea set forth is traversable?

11. "Whether the excuse alledged upon this record for not admitting, instituting, and inducting the clerk of the plaintiff, is sufficient in law?

12. "Whether the bond stated in either of the pleas is good and valid, or corrupt and void in law?"

The two latter questions were proposed by the Earl of Mansfield in addition to Lord Thurlow's, and it was ordered that the judges should give their opinions on the questions on Monday fortnight.

Sir John Skynner, Chief Baron of the Exchequer, delivered to the House the opinion of the twelve judges on the following question:—"Whether the issue, born of a woman, after *twelve* months from the day of her elopement from her husband, and living apart from him, in open adultery, such husband having instituted a suit in the Ecclesiastical Court, and *no non-access* proved, be, or be not a bastard?" which was, "That no matter of law was submitted to them in the proposition, and they did not think themselves competent to decide on a conclusion of facts."

Lord Thurlow.

Lord *Thurlow* went over the arguments he had used before on Baynton's divorce bill, still adhering to the principle, that the House were not competent to decide upon the point of bastardy, as that was a matter of property. He defended his sentiments as to the presumption of the child being legitimate, if the non-access of the husband was not proved; and he stated several cases, and several acts of Parliament, to that effect, particularly those of the 11th of Hen. IV.

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and the 38th of Hen. III. which he said did not take away the continency of the woman, in case of a bastard, unless the non-access was proved. The learned Lord, among other circumstances, mentioned one of a woman who was married to a man, who was so debilitated by a debauched life, as to make him incapable of generation, but who had a child. The fact of bastardy was to be substantiated by the evidence of the surgeon who attended him, and the non-access of the parties; yet when the debility was proved, that was not sufficient, as the husband had been in London, where she lived, once within the year of her pregnancy; and had it not been for the bare-faced perjury of a witness brought to prove an access, the child would have been bastardized. His Lordship then recapitulated what on a former day he gave as his decided opinion, that the Lords were not competent to decide on bastardy, when that bastardy included a matter of property. He then entered on the recital of the evidence given in the course of the trial, and said it amounted to this, that a husband found his wife unfaithful to his bed, and being of a soft, easy, good natured disposition, he accepted with tears the ring she returned him, recommended her earnestly to the care of the adulterer, and sought a divorce to enable her to marry the man that had defiled his bed, and injured his honour. That he continued to live within eight miles of her, for a considerable time after the separation. He wished that Mr. Bayntun had put his design in execution, of going out of the kingdom, from the first day of suspecting the adultery, until the time of obtaining the divorce, which would have given clear proof of the non-access.

Lord Bathurst

Earl *Bathurst* contended that the learned Lord's quotations went against his arguments; for in civil law, the child is bastardized on proof of the adultery. He contended that in this case, there was sufficient proof to substantiate the presumption of non-access, and that there were few Lords who could take upon them to say, that they did not believe any child born after that period would be a bastard.

Bayntun's divorce bill was then ordered to be reported.

May 26.

There was no public business till this day.

The order of the day being read for receiving the answers of the judges to the questions put to them in the writ of error, the Bishop of London against Mr. Disney Ffytche. The

The judges proceeded to give their opinions, *seriatim*—They were heard in turn, beginning with the junior in office, and this took up three days. The opinions were as follow:

The several Answers of Mr. Justice Heath, Mr. Justice Buller, Mr. Justice Nares, Mr Justice Willes, Mr. Justice Gould, and the Lord Chief Baron of the Court of Exchequer, to the Questions of Law put to them.

I. That the agreement stated in this case, is not an agreement for the benefit of the patron within the intent and meaning of the statute.

II. That if the patron present for, or by reason of, such an agreement, the presentation will not be void.

III. That giving such a bond does not secure a corrupt or illegal benefit to the patron, being only intended to enforce the resignation of the benefice, and that the being obliged to have recourse to the penalty of the bond will be no benefit to the patron within the intent and meaning of the statute.

IV. That if the patron present to a benefice for, or by reason of, such bond, such presentation will not be void.

V. That it not being a question made in the courts below, nor ever argued at their Lordships' bar, they beg leave to decline giving any opinion upon it.

VI. That whether the incumbent can compel the ordinary to accept of the resignation or not, it is not a corrupt benefit to the patron.

VII. This is answered by what is said to the 4th question.

VIII. That the unfitness of the defendant is not alledged with sufficient certainty.

IX. That the plea is not sufficient in law to bar the defendant in error.

X. That the unfitness, as set forth in the plea, is not traversable.

XI. That the excuse alledged upon this record for not admitting, instituting, and inducting the clerk, is not sufficient in law.

XII. That the bond stated in the pleas is good and valid in law.

The Answers of Mr. Baron Perryn.

I. It is a benefit, but not corrupt within stat. of 31 Eliz. ch. 6. sect. 5.

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II. Such presentation will not be void within the intention and meaning of said statute.

III. I think it is a bond for securing a benefit to the patron.

IV. I am of opinion, that notwithstanding a patron does present by reason of such bond, such presentation will not be void.

V. I am of opinion the ordinary is compellable to accept the resignation in the case stated, unless he can shew a simoniacal or corrupt agreement, or other sufficient cause, to the contrary.

VI. Whether the incumbent can or cannot controul in the cases stated, I think such bond is a benefit, but not a corrupt one, within the meaning of stat. 31 Eliz.

VII. I am of opinion if a patron does present for, or by reason of such last-mentioned bond, such presentation will not be void.

In answer to the 8th, 9th, and 10th questions, on the second plea, I am of opinion that the unfitness of the defendant in error in the second plea mentioned, is not alledged with sufficient certainty in law to bar the defendant in error from maintaining his action, and that the unfitness in the said plea set forth is not traversable.

In answer to the 11th and 12th questions, I am of opinion that the excuse alledged upon this record for not admitting, instituting, and inducting the clerk of the plaintiff is not sufficient in law; and that the bond stated in the pleas is good and valid in law.

The Answers of Mr. Baron Eyre.

I. That it is an agreement for a benefit.

II. That it does devoid the presentation.

III. That the bond is a benefit.

IV. That it does devoid the presentation.

V. Not answered.

VI. Assuming that the bishop may refuse it, is a benefit in respect, &c.

VII. Assuming, &c. it does devoid the presentation.

VIII. The unfitness not alledged with sufficient certainty.

IX. The plea not sufficient in law, &c.

X. The unfitness in the second plea set forth, not traversable.

XI. The excuse in the first plea is sufficient.

XII. The excuſe in the ſecond plea is not ſufficient. Upon theſe pleadings it is not competent for the plaintiff in error to object to the validity of the bonds ſtated in the pleadings, and therefore they are to be taken to be good and valid, and not corrupt and void in law.

May 30.

The Judges having given their opinions,

Biſhop of Bangor.

The Biſhop of *Bangor* ſaid, that he never roſe in that Houſe without great diffidence, but that he never had ſo much reaſon to miſtruſt himſelf, as on the preſent occaſion, ſince, notwithſtanding what had been urged at the bar on the ſide of the defendant in error; notwithſtanding what had fallen from the learned judges, he was diſſatisfied with the judgment in the courts below, and could not help wiſhing, that an alteration might be made in it. The Biſhop then ſaid, that he had occaſion, many years ago, to inquire into the queſtion now before the Houſe, and that he formed an opinion then, that the determinations, one in the 8th of James I. and the other in the 5th of Charles I. were not ſo well founded, as they ought to have been, and yet they had, as the Biſhop remarked, been the precedents, which the Courts had implicitly followed, whenever the matter of general bonds of reſignation were brought into queſtion. The Biſhop then enumerated the reaſons which induced him to conſider theſe determinations as ill founded, and they were principally the following: becauſe ſuch bonds were directly contrary to the very letter of the act of the 31ſt of Eliz. as it was hard to conceive, how a preſentee could give a bond of reſignation to a patron, in any ſum, by way of penalty, from whence the patron muſt not derive ſome profit, ſome benefit, and advantage, either directly or indirectly; becauſe ſuch bonds, if not contrary to the letter, were certainly contrary to the ſpirit and deſign of this act, ſince, if they were allowed to be good and valid in law, the act might be evaded with the utmoſt eaſe through every part of it. Becauſe ſuch bonds placed the obligee in a ſituation very improper for the miniſter of a pariſh. Becauſe they enable the obligator to turn a man out of his freehold without any trial, any proof, or ſentence whatever; and laſtly, becauſe they might be made uſe of to the moſt miſchievous purpoſes, to the prejudice of religion, and the diſturbing of the public peace. The Biſhop then obſerved, that as theſe reaſons had induced him to conſider

these determinations as ill founded, so had they made him hope, that he should live to see the time, when the courts in Westminster-Hall would entertain more liberal sentiments on this subject. Whether that time was now come, he would not venture to assert, but he confessed, that he had some hopes that it was not far off, as one of the learned judges had in a very ingenious argument established the just pleas of the plaintiff in error, and the rest of the judges, who had spoken from the woolsack, had not scrupled to say, that if it had been *res integra*, they would not have determined it in the same manner, as their predecessors had done; but the weight of incidents for so great a length of time pressed so hard upon them, that they were afraid to make any alterations, lest they should be considered as removing land marks, and taking too closely into fundamentals. The Bishop then observed, that great reverence was due to such decision of our courts as had been uniform and long acquiesced in; but if, said he, great inconveniences should in after times be found to arise from persisting in such determination, and no inconvenience from departing from them, the case was too plain for him to say what their Lordships ought to do. The Bishop then remarked, that there were some decisions on our law-books, which could hardly be reconciled with the common feelings of mankind; such was the case of White and White, which was determined last year. Many of the Lords were disposed to reverse that judgment, but on their being assured by the law Lords, that a reversal of that judgment would have shaken one half of the estates of the principal families in England and Ireland, the House thought it more expedient to affirm an erroneous judgment, than to open a door to endless law-suits. The Bishop then observed, that the present case was not of that sort, as no inconveniences would arise from reversing it, and if any inconveniences should be suspected as likely to follow, a remedy might be provided by a short bill: but if the judgment was reversed, great advantages would be instantly felt, as it would promote religion, learning, decency, order, good manners, discipline, &c. After this, the Bishop desired the indulgence of the House for one minute longer, whilst he made a few remarks on what had fallen from one of the judges respecting the oath of simony, as it stood in the canons of 1603. It was intimated, that as the decisions concerning the validity of bonds were made on an act of parliament in the 31st of Elizabeth, a clergyman, who had

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given a bond of resignation, might safely take the oath of simony, required by a canon of the succeeding reign. The Bishop on this occasion enumerated the several oaths of simony, which had been taken in different periods, and observed, that in some there was an express clause against bonds of resignation; but this clause had been left out some centuries, and the words, "simoniacal contract, or promise," were inscribed in the room thereof, which were construed to extend to every kind of promise, bond, covenant, &c. and as those words made part of the oath long before the act of the 31st of Elizabeth, and as the same oath was prescribed by the canon of 1603, recourse must not be had to decisions in Westminster Hall for the meaning of those words, "simoniacal contract," but inquiry ought to to be made into the sense of these words when the oath was first imposed, and that they were then considered as comprehending every kind of bargain, promise, &c. for obtaining a presentation, was not to be doubted. This being the case, the Bishop observed, that no clergyman of these days, who had entered into a bond of any kind to resign, could, with a safe conscience, take the oath of simony. The Bishop then said, that he did not advance this on his own authority only, as he had the authority of Bishop Stillingfleet, and Bishop Gibson, who for their learning, goodness, and wisdom, were two of the greatest bishops since the Reformation. The Bishop then concluded with observing, that he thought it his duty to take notice of this matter, lest if what had fallen from the learned judges had not been answered, it might have been concluded, that because bonds of resignation had been determined to be good and valid in law, therefore a clergyman, who had given a bond of that sort, might safely take the oath of simony, and this doctrine might have gained ground, and the authority of a learned judge would have been quoted for it.

Bishop of Salisbury.

The Bishop of *Salisbury* spoke also at considerable length against the legality of resignation bonds, and contended that they were in every sense of the thing, acts of a simoniacal nature and tendency, and consequently pernicious in the church. He argued strongly for a reversal of the decree.

Bishop of Llandaff.

The Bishop of *Llandaff* said, that though he was extremely sensible how much it would become him, to endeavour to bespeak the indulgence of the House, for the liberty which he was then taking of delivering his sentiments, on a subject which had received so able and so ample a discussion from the learned

learned judges, and from his brethren who had ſpoken before him, yet he held their Lordſhips' time to be far too precious to be conſumed in liſtening to any preface or apology which he could make. He was the more emboldened to deliver his opinion on the ſubject, from obſerving that the judges themſelves were not agreed in theirs; had they been perfectly united in ſentiment, he ſhould have had much greater ſcruple and heſitation in ſpeaking than he then felt; yet even in that caſe, he could not have ſuffered himſelf to have remained altogether ſilent on ſuch an occaſion, when a queſtion of the greateſt importance, both with reſpect to the intereſts of the eſtabliſhed church, and the general intereſt of the Chriſtion religion, was to receive the ſolemn and final adjudication of that Houſe.

The importance of the queſtion, he obſerved, with reſpect to the eſtabliſhed church, was evident enough, from the effect which its deciſion might, eventually, have on its revenues: they might be very materially injured thereby. There was not, he was perſuaded, one of their Lordſhips, who had duly weighed the cauſe and religious utility of an eſtabliſhed church, and made himſelf ſufficiently acquainted with the extent of the revenue appropriated to the ſupport of our own, that could ever entertain the moſt diſtant wiſh of ſeeing that revenue leſſened. The proportion indeed, he ſaid, in which that revenue was diſtributed amongſt the clergy might, in his ſincere opinion, eaſily admit an improvement conducive alike to the good of religion, and the welfare of the ſtate; but that of whatever ſentiments their Lordſhips might be on that head, he was certain they would concur with him in thinking, that the whole revenue, when taken in the groſs, was not more than ſufficient, if ſufficient for the proper maintenance of the eſtabliſhed church; it could not, without danger to the civil community, admit of any diminution. But the legality of general bonds of reſignation, if their Lordſhips ſhould adjudge them to be legal, would have a direct tendency to diminiſh that revenue in a great degree; for no ſooner would that legality be generally known, but pettyfoggers of the law, money ſcriveners, land ſurveyors, and all the ſimoniacal jobbers of eccleſiaſtical property, would conſpire with needy patrons and with more needy clerks, to invent and execute a thouſand colluſive plans to rob the church of a portion of that patrimony, which the pious wiſdom of their anceſtors had annexed to it, and which their piety, he truſted, and their wiſdom would never ſuffer to be diſſevered from it.

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But the importance of the queſtion, he ſaid, might be conſidered in another and more momentous view, as it reſpected the purity of our holy religion. It was not for the ſecurity of the church revenue that he was in any degree ſolicitous, except ſo far as that ſecurity tended to render the clergy more fitted to diſcharge with fidelity the high duties of their ſacred function. General bonds of reſignation put the miniſters who ſubmitted to them, into a ſtate of dependence, awe and apprehenſion, inconſiſtent with their ſituations as preachers of the goſpel. The Pope in former ages was a great encourager of reſignations among the clergy of this kingdom, becauſe he obtained a year's income of the benefice upon every voidance; but neither were the Catholic clergy of this country at that time, nor are they, he believed, at this time, fettered by general bonds of reſignation. In the church of Scotland, he ſpoke, he ſaid, under the correction of many noble Lords in that houſe, who certainly knew the matter much better then he did: but he believed he was right in ſaying, that this unholy traffic in holy things had not yet polluted the minds of either the patrons or miniſters in the church of Scotland; nor was it practiſed in any Proteſtant church in Chriſtendom, at leaſt not in the ſame degree in which it was practiſed in our own. This traffic, he ſaid, was a ſore ſcandal to the church of England; and he hoped from the high ſenſe of religion and honour which had accompanied the deliberations of that Houſe, that the time was now come when it would be no longer endured. Even in the primitive ages of the Chriſtian church, when it was not only unprotected by the civil power, but perſecuted by it; when kings, inſtead of being its nurſing fathers, were the bittereſt of its enemies; even then, when the clergy were maintained out of the eleemoſynary collections, which, by the direction of St. Paul, were made by every congregation of Chriſtians every Lord's day, a miniſter of the goſpel was not in ſo precarious, dependent, and every way improper a ſituation, as the legality of general bonds of reſignation would place him in; becauſe his ſupport did not then depend upon the caprice of ſome one flagitious individual, who might be offended by the evangelical freedom of his diſcourſe, but upon the good ſenſe of hundreds of well-diſpoſed Chriſtians who felt themſelves edified thereby. This, he ſaid, was a very ſerious conſideration, and much deſerving their Lordſhips' attention; he did not wiſh, nor, he would take the liberty to ſay, was there a biſhop on the bench who wiſhed, to

see the clergy rendered insolent by an accumulation of wealth and power; but he must ever wish, and he was sure he spoke the sense of all his brethren, they must all of them ever wish to see the clergy rendered so independent of all men, that they need not be afraid to tell any man of his sins; but that they might reprove, rebuke, exhort, and preach the word of God with sincerity and truth, without shrinking from that part of their duty, from an apprehension of being turned out of their benefices if they discharged it. The alienation of the church revenue, and the introduction of a spurious, timid, temporizing Christianity, were two great inconveniences, to call them by no harsher appellation, which would attend the legality of general bonds of resignation.

Here he observed, that he should probably be told, that he was guilty of a great solecism in adducing the inconvenience attending general bonds of resignation, as a proof of their illegality. But he was not, he said, so wholly ignorant of the first principles of reasoning, as to make any such conclusion; he did not assert, that the inconvenience he had stated was a proof of the illegality of such bonds; but he humbly thought, that where the illegality was wholly questionable, as it confessedly was in the present case, the inconvenience might have, and ought to have, and would have, some weight in determining their Lordships' judgments on the subject; nay, he was disposed to go farther, for he thought, that though the inconvenience was not a direct proof of the illegality of the bonds, yet if the matter was to be at all decided by the common law, it was a strong presumption of it; for the presumption appeared to him to be well grounded—that what was repugnant to the common interest, could not be conformable to the common law of the kingdom; but that general bonds of resignation were repugnant to the common interest of the kingdom, was what some of the judges had strongly intimated, and what few of their Lordships, he believed, was the matter a *res integra*, would scruple to affirm.

He had heard, he said, but four reasons mentioned in proof of the utility of even specific bonds of resignation. One respected the binding the clerk to a longer residence in his benefice than the law required; the second related to the restraining him from enjoying pluralities, in cases which the law allowed; the third and fourth had reference to the convenience of private families, in preventing the cession of livings by the acceptance of bishoprics, and in providing

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for sons, or other connections when they came of age to hold livings. The two first reasons appeared to him to be well founded in law; for it was certainly lawful for a man to give a bond restrictive of his natural or civil liberty, provided the restriction was for a good purpose, for a purpose of public utility. But the legal validity of the other two reasons was not so obvious to his apprehension; the purpose of the bond in either of the cases was not good, it was good for particular families, but it was not good for the community at large; and it was better that particular families should sustain a little injury, than that the public should suffer a great inconvenience. Here, he said, he must correct his expression; he was incorrect, he thought, in saying that private families would sustain any injury, in having special bonds of resignation adjudged to be illegal: there might, according to our present notions of these things, be some hardship, but there would be no injustice in the case; for it ought ever to be remembered, that the *jus patronatus* was a spiritual trust, and could not properly be considered as a source of temporal benefit. When the right of patronage was first granted to Lords of manors, and other laymen who built or endowed churches, there can be no doubt that they presented their clerk to the Bishop not conditionally but absolutely; not for a term of years, or to resign at the request of the patron, but for the whole of his life.

With respect to general bonds of resignatin, he said, the matter, it seemed, was not now a *res integra*; there had been in the course of above 200 years many adjudged cases, and that we must, it was contended, of necessity adhere to the precedents. The *stare decisis*, the *stare super antiquas vias*, was a maxim of law sanctified by such length of usage, such weight of authority, that he durst not produce any one of the arguments which suggested themselves to his mind in opposition to it; though some of them tended to question its utility, and some of them its justice. It was a maxim which his hitherto course of studies had not brought him much acquainted with; it was not admitted in philosophy; it was not acknowledged in divinity; for divines did not allow that there were any infallible interpreters of the Bible, which was their statute book; they maintained that fathers, churches, and councils had erred in their interpretations of that book, in their decisions concerning points of faith; this, as Protestants, they ever must maintain, or they could not justify the principles on which they emancipated themselves

from

from the bondage of the church of Rome. But be it ſo; let this maxim, as applied to the law, be admitted in its full extent, what follows? nothing in this caſe, he ſaid; for the plaintiff had averred, and one of the learned judges had been pointed in proving, that the caſe in queſtion was not ſimilar to any one of the caſes which had been adjudged in the courts below. Now a ſlight variation of circumſtance, he thought, vitiated the validity of a precedent; and the ground upon which it vitiated it, he apprehended, was this—that we could not tell whether this variation of circumſtance, had it been contemplated by the judge, or the court which firſt eſtabliſhed the precedent, whether it might not have operated ſo as to have produced a different judgment? We were all ſenſible, he ſaid, that when the mind was ſuſpended, as it were, *in equælibrio* by the equal prevalence of oppoſite reaſons in caſes of intricacy, what a little circumſtance would cauſe it to preponderate; and this little circumſtance by which any caſe differed from an adjudged caſe, leſſened, if it did not annihilate, the weight of a precedent, *qua* precedent.—But let us ſuppoſe, continued he, though we do not grant it, that the caſe of the plaintiff is ſimilar in all its circumſtances, to ſome one or more of the caſes which have been adjudged below; ſtill it will not follow, that the Houſe of Lords is to be bound by the precedents of thoſe courts; if it is, the right of appeal is a nugatory buſineſs. A precedent is a judgment that has been acquieſced in; but the ſubject is not bound to acquieſce in the judgment of the courts below; he may think that the judgment of thoſe courts is contrary to law, and he has a right to come to this Houſe to know whether it be ſo or not; and this Houſe in delivering its opinion does not make law, but declares what the law is; the courts below interpret a ſtatute one way, this Houſe may ſee reaſon to interpret it another, and in that caſe the conſtitution has ſaid, that the courts below miſtook the ſenſe of the ſtatute, and that the interpretation which it receives in this Houſe is the right interpretation. Precedents may be obligatory in the courts in which they are eſtabliſhed, and they may there be uſeful, in expediting proceſſes, and in eaſing the ſhoulders of the ſubject from that great and unavoidable burthen, the uncertainty of the law; but their operation ſhould not be extended beyond the walls of thoſe courts; it ought not at leaſt to be extended into the Houſe of Lords. If indeed there were any precedents of that Houſe, concerning the legality or illegality of general bonds of reſignation, thoſe precedents

would have deserved weight in the present case; but there was not one precedent of the kind to be met with on their journals; so that whatever might be thought as to the novelty of the case in the courts below, it was undoubtedly new in that House, free and unshackled by precedent Their Lordships' decision would on this day establish a precedent which their posterity would revere and follow; it behoved them then —he begged pardon, he did not mean to inform them of their duty, but to attend to his own, it concerned him at least, to weigh the matter with caution, to give judgment on the legal merits of the question, as if it had never been decided in the courts below.

And here, he said, he was fully conscious of his inability. and acknowledged it with humility; he was not equal to the full legal investigation of the merits of the question. But as it was sometimes of use, to know how the perusal of a statute struck a plain unprofessional man, he would briefly state to the House, how the statutes in question, namely, that passed in the 31st of Elizabeth, and that in the 12th of Queen Anne, to prevent corrupt presentations to benefices, had struck him. He was sensible that the words "general bonds of resignation" were not to be found in either of the statutes, and consequently such bonds were not expressly *totidem verbis* prohibited by the statutes; and if every thing that was not *totidem verbis* prohibited by an act of Parliament, was to be considered as allowed by that act, then unquestionably, general bonds of resignation were legal. But he begged leave to consider the subject in another way. During the short time in which he had had the honour of a seat in that House, he had heard many diffuse and elegant orations on different sides of the same question, by which his understanding had been so bewildered, and his judgment so perplexed, that he had not been able to come at any conclusion, till he had divested the debate of all its ornament, and examined the matter by the dry principles of scholastic reasoning. Would their Lordships allow him, instead of dilating on the scope of the statutes in question, to sum up what he had to observe upon them in that dry way? A syllogism, he acknowledged was not a figure of rhetoric much used in that House, n much calculated to conciliate its attention, but it served to compress much matter into a little compass, and to investigate truth with certainty. The syllogism which he would propound to their Lordships' consideration was simply this— That practice cannot be conformable to the spirit and meaning of an act of Parliament, which entirely frustrates the

very

very end and purpose for which the act was originally made ; —but general bonds of resignation intirely frustrate the very end and purpose for which both the statutes were made :— therefore general bonds of resignation cannot be conformable to the spirit and meaning of those statutes. — How general bonds of resignation frustrated the ends of those acts would appear by a single example. Suppose a living to be now vacant, the value of the next presentation to be five thousand pounds ; the patron, by the 31st of Elizabeth, cannot sell this presentation : the clerk, by the 12th of Queen Anne, cannot buy it : a general bond of resignation puts both parties much at their ease ; the clerk in consequence of it gets full possession of his living ; the patron the next day sues his bond, or, without a suit, gets possession of his money ; and thus the vacant presentation is virtually sold by the patron, and virtually purchased by the clerk, and the legal end and intention of both statutes is legally, if general bonds of resignation be legal, eluded and defeated. This, he said, was the way in which the matter struck him ; yet he was not quite certain whether he was not out of his depth ; sometimes he thought that he touched the ground, at other times he seemed to himself to be afloat: the cause of his uncertainty was simply this ; he did not know in what degree we were to be guided by the letter, in what by the spirit and meaning of an act of Parliament ; he was not fully acquainted with the doctrine concerning the legal latitude of the interpretation of statutes ; he would leave, he said, that point to be discussed by abler judges, and proceed to trouble their Lordships with an observation or two on the oath against simony, and on the form of resignation. He meant not in what he should say on these heads to cast the slightest imputation on the moral character of the clerk in question ; he knew nothing of him farther than this transaction taught him ; and it was very possible for him to have thought, and he questioned not he did think, that he was not engaged in an improper transaction.

In the first place, it was to be observed, that every clerk before institution, swore that he had not made any simoniacal contract for, or concerning the procuring of his benefice. The force of this oath, he said, depended on the construction of the two terms "simoniacal contract." The term simony was a very complex term ; it extended to more cases than had been enumerated in any law book ; but thus much, he thought, it would be allowed on all hands, was included in the idea of simony. Every pecuniary contract entered into

by a clerk, by means of which he procured a presentation to a vacant benefice, and without which he would not have procured a presentation to it at all, was a simoniacal contract—but a general bond of resignation was a pecuniary contract entered into by a clerk, by means of which he procured a presentation to a vacant benefice, and without which he would not have procured a presentation to it at all, and therefore a general bond of resignation (he protested that he had not acuteness enough to see any falacy in the conclusion) was a simoniacal contract. Here, said he, it may be remarked with apparent subtilty, that a bond to resign a benefice is not a bond to procure a benefice, and the assertion may afford matter of ridicule to those who are disposed to perplex the argument; but ridicule was not the test of truth, it was a cobweb spread by artful men to entangle weak understandings; and he did maintain, that though a bond to resign a benefice, and a bond to procure a benefice, were not in words the same thing, they were the same in purpose and effect. The cause of any effect, he conceived to be that, which being taken away, the effect itself would not take place; but a general bond of resignation was the *causa sine qua non*, the immediate efficient cause of the presentation; for if the bond was taken away, no presentation would take place; the bond therefore was a contract for procuring the living; it was the one essential mean of procuring it; for without it the living would not have been procured at all.

In the second place he would beg for a moment their Lordships' attention to the form of resignation. In the old Latin form, and the modern English one was, or ought to be, a translation of it, the clerk who tendered his resignation to the bishop used these words—*non vel metu coactus, vel sinistra aliqua machinatione motus, sed ex spontanea voluntate, pure, ac simpliciter renuncio et resigno.* Now if there was any meaning in language, he contended, that a clerk who had given a general bond of resignation could not use that form. How was it possible for him to say, that he was not *metu coactus*, when he was constrained by the terrors of his bond; that he was not *sinistra machinatione motus*, when he was compelled to the action by all the untoward machinery of the law; that he did it *ex spontanea voluntate, pure, ac simpliciter*? no, there was no simplicity, no purity, no spontaneity in the case; or if any, it was that sort of spontaneity which a man felt when he delivered his purse to a robber; no, the resignation did not proceed

ceed from the spontaneous, intrinsic movement of his own mind, but from the compulsive, extrinsic energy of his bond.

The Bishop concluded by saying, that he had detained their Lordships too long; that he had risen so early in the debate, not from any vanity of expectation that his opinion could have weight with any person but himself; but from a wish to have the judgment which he had formed corrected if it was wrong, for he hoped that some noble Lord would condescend to inform him of the mistakes he had committed in his reasoning, as it was but too probable that, in so novel a subject, he had committed many.

Bishop of Gloucester.

The Bishop of *Gloucester* likewise, in corroboration of what his learned brother had said, went into an explanation of the oath taken by the clerk on his being inducted, and the impossibility of his taking such an oath after giving a resignation bond, without being perjured. He likewise animadverted on the slavish state the clergy would be held in, if presentations incumbered with such bonds were declared to be good and valid by that House.

Lord Thurlow

Lord *Thurlow* followed the learned prelates, and like them, condemned the practice of giving resignation bonds under any circumstance whatever; and after investigating, and dwelling for a considerable time on the ill consequences that these bonds were likely to produce, he, in a most able manner, went through every case that had been decided upon since the passing of the 31st of Elizabeth to the present time, and drew from most of them a different conclusion to what had been done by the judges who gave their opinions on the questions which were put by their Lordships, excepting Baron Eyre, who was the only judge who dissented from his learned brethren—he said the learned bench had sought for precedents, where, in fact, although the cases were somewhat similar, the proceedings were entirely different; many of those causes had been lost from inattention to the plea, traverse, or averment, and therefore, notwithstanding the many cases that had been produced, and the many arguments used, he was of opinion, that the question whether these bonds were simoniacal or not, had never been decided upon. How was it possible they should, when their Lordships are told, that in the courts below they considered the bonds as legal, where no proof could be produced that it was given for an unlawful purpose; and for the validity of the presentation refer them to the court of Chancery, as if a court of equity could act upon the consciences of the parties, and make them confess what

motives

motives had induced them to enter into such obligations—he had but little faith in the moral character of that man, who could take the oath prescribed, upon being inducted by the bishop into a living, after entering into such a bond; but should strongly suspect him capable of sustaining a false plea with false affidavits—when the right of patronage was first granted, it was granted under certain restrictions; they could only present to the bishop; and he upon proper grounds was vested with a right to refuse such clerks so presented: but that he should not refuse from any private dislike, an appeal was allowable to the metropolitan: but the bishop could not confirm for any number of years; no such thing was ever heard of; he could not turn that clerk out of his presentation, while he acted according to the laws and regulations of the church; it was futile then to suppose that the patron was meant to enjoy a greater prerogative than the see, to whom he was obliged to apply for a confirmation of his choice. It was the same, his Lordship observed, with respect to the appointment of masters in chancery; their appointment was in the breast of the Chancellor; but, being appointed, they were totally independent of him, while they performed their avocations with attention and integrity. His Lordship supposed a variety of cases, and drew inferences from them to the point in question, but in the enumeration of which he traversed so large a field of legal investigation, that we find ourselves unable to the task of following him; in the course of his speech he took occasion to remark that he had been greatly disappointed by all but one of the learned bench, having availed themselves of the indulgence granted by that House, and under that indulgence declined giving an answer to his fifth question, as he considered it as containing matter of great importance, and should have been much indebted to them for their opinions upon it. His Lordship at length concluded his speech, which he was an hour and three quarters in delivering, by moving that the decree of the court of Common Pleas be reversed.

E. of Mansfield. The Earl of *Mansfield* then left the woolsack, and observed, that the Judges having been called upon by their Lordships to give their opinions upon certain questions, by which that House might be better enabled to decide upon the cause before them, they had of course attended, as it was their duty so to do—but some had availed themselves of that indulgence which their Lordships generally allowed; it was not to oblige those to give their opinions from whose court the appeal had been made;—there were many cases, indeed, wherein

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they were all called upon: for instance, in appeals from the court of King's Bench; they were called upon not to give their opinions upon the case, but for the reasons that had induced them to pass that judgment which had occasioned the appeal. Having said thus much with respect to the judges, he declared himself against reversing the decree, and principally for these reasons: because whether right or wrong, it had been considered for more than 200 years as the invariable law of this land—it had frequently been decided upon as such, and numbers of worthy characters had acted accordingly, without having the least simoniacal intention by taking such a bond whatever. He replied to most of the particular cases that had been mentioned by Lord Thurlow, and, coinciding with the judges in their opinion upon them, he did not attempt to defend the practice; it might be an alarming evil, and perhaps called aloud for a restriction; but then he wished it to be checked in a proper manner, and not to immerge so great a part of the community in difficulties, and who had supposed they were acting according to the legal authority of their country—that it would plunge numbers into difficulties, even the learned prelate, who spoke so strenuously, was fully aware of; for even he had proposed an act to be passed for their indemnification; but who ever heard of giving judgment to inflict punishment first, and passing an act afterwards to alleviate it? Let the act be made, and then we might proceed accordingly. He likewise differed from the learned prelate with respect to that House being competent to decide of itself; such a decision would be contrary to the constitution; they could only act according to the laws of the country, and their judgment was only such as, according to those laws, ought to have been given in the courts below. His Lordship then reverted back to some of the arguments used by Lord Thurlow, and observed, that whatever might be his reasons for imbibing his present opinion, he had not the least doubt but had the case been brought before him while he was in Westminster-hall, he would have fled to, and agreed with those precedents which he had now so ably and strenuously endeavoured to prove of no consequence.

Lord Thurlow.

Lord *Thurlow* said a few words in reply to some passages which Lord Mansfield had misunderstood; after which

The D. of Richmond.

The Duke of *Richmond* rose, and stated a matter of fact which had happened to himself in the purchase of an estate, where the right of receiving these resignation bonds had made a difference in the price; and as this circumstance

might

might have happened to many others, he thought they ought, according to the many decisions that had been given in their favour, to be considered as good and valid, until an act of Parliament should be passed declaring the contrary.

The question being put, a division was demanded, when there appeared in favour of Lord Thurlow's motion, that the decree be reversed, 19, against it 18, majority 1.

The Earl of Radnor.

The Earl of *Radnor* moved for the following papers, which were ordered to be laid on the table

"That the proper officer do lay before this House, a list of such persons, together with the names and salaries of their appointments, as the Commissioners of the Treasury have in pursuance of the act of the last session of Parliament, intituled, "An act for enabling his Majesty to discharge the debt contracted upon his Majesty's Civil List Revenues, and for preventing the same from being in arrears for the future, by regulating the mode of payment out of the said revenues, and by suppressing or regulating certain offices to be mentioned in the said bill," appointed or continued in office for the purpose of carrying into execution (under the direction of the Lord Stewards, Lord Chamberlain, Master of the Horse, or other principal officers) such œconomical plans, reforms, and alterations, as are therein directed."

"That the proper officer do lay before this House, a copy of such plan of the establishment and payments of the Civil List Revenues, in classes, with the estimates of the expence of each class, and of each individual office in each class, as by the act is directed to be drawn out by the Commissioners of his Majesty's Treasury on or before the 5th day of April last."

"That the proper officer do lay before this House, a list of such several officers as by the direction of the said act, or by any authority since the passing of the same, have been suppressed, with the names of the last several possessors, together with an account of such annuities as have been substituted in compensation or lieu thereof."

June 3.

MOTION ON THE COMMISSIONERS FOR THE CUSTODY OF THE GREAT SEAL.

The D. of Richmond.

The Duke of *Richmond* called the attention of their Lordships to the motion which he had intimated in respect to the constitution of the Great Seal, and particularly to its pre-

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ſent ſituation in the cuſtody of the Commiſſioners. He prefaced his ſpeech on the ſubject with adverting to the reform which had been lately agitated in the repreſentation of the people in Parliament *, which he diſcuſſed pretty much at length, and ſaid, that in every thing which appertained to the conſtitution, he wiſhed to ſee ſound principles taken and maintained as the ground work of every meaſure that was adopted, and he was anxious to try every meaſure by that criterion.

The independency of the Judges was one of thoſe principles which he conceived to be eſſential to the conſtitution, and that the Legiſlature ought to be jealous of every thing that could lead in the moſt remote degree to affect their independency. The noble Duke went into the hiſtory of the Judges in ſo far as reſpected their original and the progreſs of their eſtabliſhment; ſtating the ſubſerviency in which they were held before the Revolution, the precariouſneſs of their ſituations, and the conſequent influence which the Crown thereby held over all their conduct; an influence ſo hoſtile to freedom, ſo inimical to every idea and principle of liberty, that it was impoſſible that a nation could be ſaid to enjoy the ineſtimable treaſure, where the ſources of public juſtice were dependent. And here he begged the Houſe to take with them in all that he ſhould ſay, that he had no intention to make a perſonal attack, no deſign to run at any individual, or any ſet of individuals whatever. Nothing could be farther from his meaning; he wiſhed merely to bring under their Lordſhips' conſideration a point of great public concern, for ſuch he ſhould ever conſider the independency of the Judges; that was the main object of his troubling their Lordſhips that day, though it might be ſuppoſed that he intended, and he made no ſcruple to avow, that he was chiefly led to undertake what he was then about to ſtate, from a conſideration of the commiſſion into which the Great Seal had been lately put. But he begged to be underſtood as meaning nothing perſonal to the noble and learned Lord in his eye, [Lord Loughborough] or to any other judge. His Grace then obſerved, that the independency of the Judges was a matter in which every perſon muſt feel an intereſt,

* Vide Commons' Debates on the motion of Mr. William Pitt, on the 7th of May.

fince the uprightnefs and integrity of thofe, in whofe hands the lives and properties of the people were placed, were qualities indifpenfably neceffary for the public fecurity, and on which effentially depended an honeft and equitable diftribution of the law of the land. He mentioned, that in the earlier days of this country their dependence refted folely on the will and pleafure of the Crown, and that antecedent to the Revolution all their commiffions exifted only *durante bene placito*. Soon after the Revolution, an act paffed, (the 13th of William III.) which put the Judges on a better footing, and declared them to be entitled to hold their fituations *quamdiu fe bene gefferint*, and that their falaries fhould be fixed and afcertained. On the demife of the late King, and prior to that event, doubts had been entertained, whether the Judges' commiffions did not ceafe, when the King who granted them expired. Thefe doubts were doubts, in the true fenfe of the word, becaufe it was a fact that was notorious, that fome of the Judges themfelves thought their commiffions continued in force, notwithftanding the royal perfon who figned thofe commiffions had no longer exiftence. Other very worthy men thought differently upon this fubject. However, in the firft year of the prefent King, an act paffed, which put an end to all farther doubt, by declaring the Judges to continue in office *durante fe bene gefferint*, or in other words, to be removable only for crimes, with the fingle exception, that on an addrefs of both Houfes to the Crown for that purpofe, they might be removed. Thus matters ftood for fome time; the act of King William clearly avowing, that the falaries of the Judges ought to be fixed and afcertained, and that of 1 George III. giving their commiffions exiftence during life, unlefs guilty of fome crime, or complained of in the manner he had ftated. Hence his Grace inferred, that it was his opinion, that of all men the Judges ought to be independent, and that their falaries ought to be afcertained; indeed, without the latter, it was impoffible to accomplifh the former. Of late years, fome farther additions had been made to the falaries of the Judges, of which his Grace gave the Houfe a correct account, and particularly mentioned Lord Mansfield's and the other Chief Juftices having written to the Speaker of the Houfe of Commons, requefting him to ftate to the Houfe, that they defired no increafe of falary whatever. His Grace ftated, that very foon afterwards, in March, 1782, a patent paffed, granting the Chief Juftice of the Common Pleas a farther

addition of 1000l. a year. That addition was given by the Crown, as his Grace contended, in direct opposition to the spirit of the act of William the Third, for it was idle to talk of having the Judges' salaries fixed and ascertained, if the King, whenever he chose it, could give an addition of one thousand pounds a year to any one Judge. If it could be done to one, it could be done to all; and every one of their Lordships must see that if the Crown had such a power, the Judges were no more independent now, than at any period before the Revolution. His Grace dilated upon this for some time, and said there were but two means of dependency, men's hopes and fears. The acts of William III. and 1st of George III. had effectually taken away the fears of the Judges, it no longer resting on the will and pleasure of the Crown whether the Judges should continue in office or not. But unless their hopes were also removed, the work was but half done; and it was from a consideration of that circumstance, his Grace said, that he had been prompted to bring the subject before their Lordships, and that especially by the commission lately issued to three Lords in whose care the Great Seal was at present entrusted. His Grace gave a detail of the several commissions issued for this purpose for many years past, as well before as since the Revolution. He stated that commissions of the Great Seal had passed in 1604, 1606, and 1640. He stated also those since the Revolution, and after dwelling upon them for some time, said, the Judges in the present commission were obviously selected by favour, and not by rotation or seniority, which of itself was a circumstance that materially went in his mind to affect their independency. He mentioned the great emoluments that were supposed to accrue to the holders of the Great Seal, and which, superadded to the salaries enjoyed by the commissioners in their capacities of Judges, gave them advantages which could not but tend to raise the hopes of Judges in future to enjoy the same, and consequently placed them immediately within the influence of the Crown. He declared, he meant not to insinuate any thing to the prejudice of the present commissioners of the Great Seal. He must do them, and the Judges in general, the justice to own, that he believed there never was on the bench a set of more incorruptible and deserving men—men, whose characters were not liable to the smallest impeachment of any kind whatever. He spoke, what he had said respecting the present commission, merely from feeling for the consequence of such

 a practice

a practice prevailing. He did not mean to blame the measure, he was aware it was by no means a new one. He might possibly be asked how would he remedy the grievance he complained of? He owned, he was not prepared to say how, but that was no reason why the matter should not be taken into consideration. In one of the old commissions, three lay Lords had been joined with the Master of the Rolls for the time being. In another, Serjeant Maynard, and other Serjeants, had been the commissioners. He was not prepared to say, what commissioners would be the most fit, but sure he was, that to select Judges by favour to sit as commissioners, and to give those Judges the salaries and emoluments arising to a Lord Chancellor, was materially to affect their independency. If Judges must be chosen for commissioners, and if they had leisure enough from the business of their own courts to do the duty, let them do it without any additional salary or perquisite, and then he should be ready to admit his objection was done away. His Grace enlarged very considerably on this idea, and after describing what he considered as consequences detrimental to the liberties of the subject, likely to arise from continuing the practice of putting the Great Seal in commission in the present manner, he said, he must beg leave to view the raising the hopes of Judges as a means of lessening their independency in other lights, and as arising from other circumstances. One was that of granting commissions like that under which the present Chief Justice of the King's Bench sat as Speaker of the House of Lords. He knew the noble Earl's commission was not a new one, but of long date; but still that appeared to him to be a mode of reward dependent on the will and pleasure of the Crown, and therefore such a mode as went in contradiction to the idea of having the Judges' salaries fixed and ascertained, and their independency secured. Another matter that struck him likewise was, the Judges sitting in that House, as Peers. He did not mean or desire to say that the highest honours the Crown could bestow should not be open to the law as well as to every other profession; all he wished was, that while lawyers sat on the Bench as Judges, they should abstain from exercising their privileges of sitting, debating, and voting in that House as Peers. His Grace said, the best writers had agreed, that those, whose business it was to expound the law, ought not to be legislators. The characters of a judge and a politician he held to be incompatible. Baron Montesquieu, in his

 chapter

chapter of the Constitution of England, had these remarkable words upon the subject:

"When the legislative and executive powers are united in the same person, or in the same body of magistrates, there can be no liberty; because apprehensions may arise, lest the same monarch or senate should enact tyrannical laws, to execute them in a tyrannical manner.

"Again, there is no liberty, if the judiciary power be not separated from the legislative and executive. Were it joined with the legislative, the life and liberty of the subject would be exposed to arbitrary controul; for the judge would be then the legislator. Were it joined to the executive power, the judge might behave with violence and oppression."

An English writer also, of acknowledged ability and authority, Mr. Blackstone, says, "Nothing is more to be avoided, in a free constitution, than uniting the provinces of a Judge and a Minister." His Grace reasoned on these remarks for some time, and took notice of the slender and very extraordinary ground on which the Judges were excluded from sitting in the other House of Parliament. He said, it was by no law or act of Parliament, but by a single resolution of the House of Commons. In order to illustrate this matter, his Grace read an entry from the Journals of a whole day's proceeding, which according to the custom then prevalent was entered extremely short. The entry (if we recollect aright) was of a report from a Committee of Privileges on the 15th of November, 1610, which stated the names of several members, representatives of Calne, Southwark, &c. &c. who had absented themselves from Parliamentary duty, together with the reasons made known to the committee for their having so absented themselves. One was a Captain in the army, another a gentleman full of age and infirmities, and others, Judges. The House, after some debate, resolved that the Captain shonld do his duty, and continue to serve as a burgess; that the member for Calne, on account of his illness, and not being likely to recover, should serve no longer; and that the Judges, who pleaded that they were attending the House of Lords, should not be recalled. Upon this single resolution, his Grace said, it was, that the Judges had never sat in the House of Commons since. He also said, that the Attorney and Solicitor General were likewise formerly excluded from the Commons; but that it appeared from an entry on the Journals,

that

that they obtained their right of sitting as members afterwards, the entry he alluded to stating, that Mr. Attorney by connivance walked in and took his seat. Having a little discussed these curious facts, his Grace stated, that nothing was more easy to be evaded than the resolutions of the House of Commons, or, indeed, resolutions of either House of Parliament. He reminded their Lordships, that the Attorney and Solicitor General were entitled to seats on the woolsack, and by a resolution on their Journals, they were forbid to plead at their bar; but that resolution was evaded by their putting their writs in their pockets, and never taking their seats, the resolution going, that they should not be heard at the bar of that House after they had taken their seats in it. His Grace urged this by way of strengthening his argument, that while Peers continued Judges, they ought not to sit as Peers; and he contended, that while they did sit there, they necessarily and unavoidably became politicians, a character which, he thought, a Judge ought not by any means to condescend to undertake. Among other reasons, why Lords Chancellors and Lords Commissioners ought not, in his opinion, to sit in that House as Peers, his Grace said, it struck him as highly irrational, that they should sit upon their own decrees, and, as it were, try themselves. He mentioned its having been often boasted that Lord Hardwicke never had one of his decrees reversed during the long time he sat upon the woolsack. He had always considered that assertion as no compliment to Lord Hardwicke, and as a fact that proved too much for those who used it in triumph. Did their Lordships think Lord Hardwicke so infallible, that in all the length of time he sat on the Chancery Bench, he had never once given an erroneous judgment? Or must not their Lordships rather concur in opinion with him in supposing that the true reason why no one of Lord Hardwicke's decrees was reversed during his continuance on the woolsack, was the great influence a Chancellor of Lord Hardwicke's abilities must always possess in that House? In support of this opinion let it be remembered, that when Lord Henley sat there as Lord Keeper, he had the misfortune to have several of his decrees reversed; but from the time that he became Lord Northington, and was created a Peer, having then an opportunity of talking a little to their Lordships about his decrees, no more reversals were heard of. In all cases of appeal, their Lordships well knew, it was for the most part customary to leave the judgment to the

Law

Law Lords; very rarely it was that the lay Lords interfered; nor was it very common for the House to have the assistance of the learned Bench opposite to him, for four of that Bench to rise and give their opinions one after another, and for thirteen or fourteen of them to vote in support of those opinions. The impropriety therefore of Law Lords trying over again the causes they themselves had adjudged, must strike every noble Lord present; for notwithstanding they had heard the other day a noble and learned Lord declare, that he had no conception, that there could be a Judge who did not, when he came to sit upon an appeal in that House, divest himself of every idea formerly entertained by him upon the subject; and notwithstanding he was far from disputing, that the noble and learned Lord in question entertained such an opinion as he had stated, and thought it practicable, he must be allowed to consider what human nature was, and to judge accordingly. It appeared to him actually impossible for men to divest themselves altogether of, what he would call, honest prejudices. On the contrary, he was ready to agree, that it was even laudable for Judges to adhere to opinions grounded on what they had persuaded themselves was strictly right. Without therefore at all censuring any Judge for what was past, he would only say, that he trusted their Lordships would all agree with him, that the source of justice ought to be kept pure; and for this reason it was, that he wished for the future, proper measures might be taken to remove the hopes as well as the fears of Judges, and he thought no better means could be adopted to effect this purpose, than by teaching them to rest satisfied with their judgeships. At the same time he meant not to narrow their incomes; if they had not sufficient at present, by all means give them more. The salary the Puisne Judges now received, according to the consent of Parliament, amounted to 24,000l. per annum, out of which they paid the taxes; but then their chamber practice, he understood, brought them in between 400l. and 500l. so that they were supposed to receive a net 2000l. a year. Should that not be thought an adequate income for a Judge, he would readily give his consent to encrease it; but it appeared to him as absolutely necessary that the spirit of the 13th of King William should be adhered to, and that the Judges' salaries should be fixed and ascertained. His Grace having spoken for a considerable time, and made a variety of other remarks, which we do not immediately recollect, at length

came

came to a conclusion, and said, his intention was to move that a committee be appointed to enquire into the independency of the Judges, and into the best means of securing it. He was, however, aware, that a naked vote of that kind would be held objectionable, and deemed unparliamentary. He therefore meant then to move a resolution, stating, (in substance) "that putting the Seals in commission *durante bene placito*, and appointing Judges commissioners, with large salaries and perquisites, to be received by them during the existence of a commission, originating in and solely dependent on the will and pleasure of the Crown, tended to invalidate the act of the 13th of King William." He would not, his Grace said, make either motion just then, though it might probably be the more regular mode of proceeding, but he wished to hear if Government had any intention of taking up the subject themselves. Should that be the case, or should he be afforded a single ray of hope that they had any such design, he would readily forego making any motion, being perfectly conscious that Government could accomplish the object with more ease and certainty than he could pretend to, by the scanty knowledge which he had, and the still less influence in that House.

The Earl of Abingdon.

The Earl of *Abingdon* wished to know if there was any motion before the House; if there was, he would trouble their Lordships with his sentiments, but which would be improper in him to do, provided there was not.

The D. of Richmond.

The Duke of *Richmond* finding no one would rise to give him his wished-for information, moved his first resolution.

The Earl of Abingdon.

The Earl of *Abingdon* said, considering as I do the motion made by the noble Duke, in the light of a ministerial selection of the Judges of the land, not in the order in which they stand, and according to that claim of seniority which would seem both in law and equity to give them a right of preference to the holding of the Great Seal in commission, but with a view to party motives, time-serving purposes, and factious ends, and thereby aiming at the disturbance, if not the destruction of that independency, not only so essential to the fit distribution of justice, but which his present Majesty, in the true spirit of a patriot King, had so graciously willed to establish. I say, my Lords, considering this motion in this light, whilst I rise to give my hearty concurrence to it, I shall beg leave to trouble your Lordships with a very few words, not upon the ground of this motion, because the House will receive every satisfaction they

they can desire from the noble Duke, in whose hands it is, but upon that event, which having taking place, has proved the cause of which this motion is the effect only.

My Lords, the event to which I allude, your Lordships already anticipate me in. It is to that infamous and ruinous coalition of parties by which this country has been lately so murdered, cursed, and damned. Infamous, my Lords, because we are held up in infmay, disgrace, scandal, detestation, and abhorrence to all the rest of the world;—ruinous, because it has shaken the government of this country to the very corner stone and foundation of its overthrow and ruin: a coalition which makes us ashamed of our very selves, which has blighted the hopes of our salvation from anarchy and confusion; which has stained and polluted the honour of this House; which has taken Majesty in captivity, and wrested from the throne the rights belonging thereto; a coalition that has written in great and golden cyphers, its own life and history; for it was gold; it was the *Auri sacra Fames*, and nothing else, my Lords, that gave being to this connection; that gave birth to the monster. A coalition, therefore, that has planted a dagger in the bosom of all public virtue, that has made us to know that Whiggism, boasted Whiggism! is no more than a ladder formed to climb over the backs of the people to power; and when arrived there, is that scourge of humanity; is that bitter enemy to the rights and liberties of this constitution, is even Toryism itself.

Fie, fie, my Lords, on such a degradation of the old Whig interest of this country, as it has been falsely so called, that vice should coalesce itself with virtue is not to be wondered at, that the noble Lord in the blue ribband, in the other House of Parliament, who has lent himself by his example to prove, that all public virtue was nothing but a public cant, and catch word, a mere *vox et preterea nihil*, who has rent and torn the empire into pieces, even to dismemberment itself by the tyranny which he has exercised, and the rapine and plunder which he so much encouraged and promoted, that he should wish to assimilate himself with those who had the appearance of holding contrary principles, and by that assimilation to shelter himself under the disgrace of others, is not to be wondered at; but that other Lords with blue ribbands, that those who pretend to hold up character as the pledge of their political conduct, should be so wicked, so debased, so degraded, as to become

in the hands of indigence itself the weak and willing tools of supporting the surrounding wants of beggary, and at the same time to glut the appetite of a dark resentment and malignant malice, is almost too much for credulity to believe; and yet too, in so notrious and shameless a manner! For what is the picture? See, my Lords, here it is; coalition riding into power on the back of a peace; a peace condemned for the very purposes of this power. A peace which has not only proved the author of it, my noble friend, (the Earl of Shelburne) to be next to the Earl of Chatham, the greatest Minister and Statesman this country ever saw, but, like the Earl of Chatham, the once-again political saviour of this country, a peace unpurchased abroad, unsolicited for at home, supported by all the talents, the wisdom, the virtue, the property of the nation; condemned by the reverse of all this, save and except the few, the deluded few, deluded by objects of ambition, to which I trust they never will attain; a peace, therefore, which will bind the temples of my noble friend with that *civic* crown, as honourable to himself as it will be lasting in the annals and history of this country.

And now, my Lords, having expressed my honest indignation upon this occasion, whilst I have no doubt but that the House either takes shame to itself, or feels the same temper of mind that I do; I sit down with the repetition only of my entire acquiescence with the motion that has been made by the noble Duke.

Duke of Portland.

The Duke of *Portland* had frequently reflected on the consequences that might attend putting the seals into commission, but could not conceive it would be of that alarming nature, as the noble Duke who had made the motion for the regulation, had pointed out to the House; indeed in the present case he had too high an opinion of the independency of principle and integrity of disposition of those who now held them, to think it was in the power of any Minister, either by promises or threats, to make them act contrary to what they thought upright and just. What the noble Earl who spoke last had thought proper to say in condemnation of what he was pleased to term the coalition, should not meet with any contradiction from him; he was satisfied that those who composed the present administration were actuated by the strongest desire to render every service in their power to their country; that while they did that, he had not the least doubt but they would be supported by the best characters,

and

and every well-wisher to that country, and therefore he should sit contented under the censure of any mistaken individual. Provided the motion should pass, notwithstanding the noble Duke had said it was contrary to his intention, he apprehended it would be understood in the world as an animadversion on, and a condemnation of the present measure, he should therefore give it his opposition, and by way of getting rid of it, would, and did, move the previous question.

Duke of Richmond.

The Duke of *Richmond*, to shew that he had not the least design of throwing any reflection on the present administration or their appointment, and which the noble Duke who spoke last conceived would be understood by the words of the first motion, begged leave to withdraw it, and to let the second stand by itself, as the first was only meant by him as the ground-work for the committee to proceed upon.

Earl of Carlisle.

The Earl of *Carlisle* was against the motion, but at the same time confessed himself totally unprepared to meet it with that minute investigation which the arguments that had been used in its favour, by the noble Duke, might have a claim to. He was not adequate to the subject, to follow him throughout the various grounds he had taken; but to such observations as struck him most forcibly, he would endeavour to make some reply. The noble Duke had dwelt pretty largely on the impropriety of the Judges having any prospect of rising by any other means than seniority; this appeared to him as saying that men who might be worn out by their long services, and who from age found their mental faculties on the decline, were the most fit persons to be entrusted with the most active, laborious, and arduous employments that the public interest and welfare were concerned in; it was, besides, taking away all emulation for becoming eminent in their profession, and a total damp to merit, as it was to go unrewarded; while on the other hand, they had now an encouragement to become proficients in their profession, as a certain reward was sure to be the consequence of their assiduities. His Lordship defended the principles that had actuated Ministers to put the seals into commission, and the right they had to make a choice of whom they thought proper; although so high an opinion had he of the whole of the learned Judges at this period, that he was certain it was impossible for them to have chosen improperly: after replying to several of his

Grace of Richmond's propositions, he concluded, by declaring, he should give his negative to the motion.

Duke of Richmond.

The Duke of *Richmond* reminded the House, that he had expressly declared in his former speech, that he meant not to reprehend the intention of administration, in putting the Great Seal in commission; he had reasoned merely upon the probable consequences of such a practice, and the effects that might follow its continuance. Since therefore the noble Duke considered the motion as an implied reprehension of the measure, he would with the utmost readiness withdraw it. With the leave of the House, his Grace fulfilled this declaration, and then moved, "That a committee be appointed to take into consideration the independency of the Judges, and such farther regulations as may be proper for securing the same."

Duke of Portland.

The Duke of *Portland* rose again, and said, for the reasons assigned in his former speech, he must move the previous question upon a motion, for which he saw no real necessity.

Lord Stormont.

Lord *Stormont* was of opinion that the motion, as it now stood, was much more improper than at first, as it now went to seek a redress for a grievance, without stating a complaint that any grievance existed. The noble Duke had proceeded with a deal of candour, and no doubt had acted solely from those principles which he had stated to the House; but even he knew the necessity that some grievance should be implied before a redress could be sought for, and had therefore at first proceeded in a regular form. His Lordship said he was far from meaning it as a compliment, or flattery to the noble Duke, when he declared that no member in that House was more regular in his parliamentary grounds for his proceedings, and at the same time, he begged leave to say, no man was more happy in discovering grounds to proceed on. Before he proceeded to say any thing of the main purport of the noble Duke's speech, his Lordship said, he would shortly take some notice of what had fallen from the noble Duke, incidentally as it were, and though in some sort relative to his motion, not immediately connected with it. With regard to the President Montesquieu, from whom the noble Duke had read a quotation, that able writer had expressly declared, that in times of ignorance, or (as he called them) in times of darkness, men were eager to propose changes, and ready to adopt them blindly and without any consideration of what the consequences

quences were likely to be, that would follow, but in more enlightened times, men shuddered at the idea of change, and if a grievance complained of had existed for any length of time (the President Montesquieu said) the more wise dreaded to apply a remedy, because having long suffered the evil, they were accustomed to bear it, and knew its extent, but they knew not the operation of the remedy, nor whether they might not lose by adopting it. Before he proceeded farther, therefore, his Lordship said, he would lay it down as an unalterable position, that it would be wholly unworthy of their Lordships' gravity, and totally beneath the dignity of their proceedings, to spend their time in searching after imaginary evils, in order to find out a possible remedy. With regard to the commission lately passed, for putting the Great Seal into the custody of the Chief Justice of the Court of Common Pleas, and of two other learned Judges, if that tended in any shape to lessen the independency of the Judges, he cared not on whom the charge fell, but he would not hesitate to say, that it was a grievous offence. Before, however, any such conclusion was drawn, it behoved their Lordships to examine with some precision, in order to find if any premises had been laid down from whence such an inference might fairly be deduced. With regard to the passage cited from the President Montesquieu, and very correctly cited it had been by the noble Duke, its application and meaning were directly the reverse of those which had been considered and argued upon, as belonging to it, by the noble Duke. The President Montesquieu was not so ignorant of the English constitution, as not to know, that a judicial was blended with a legislative power of that House, and that their Lordships sat there, acting, as occasion required, in both capacities. He never, therefore, could have intended to have applied the remark relative to the legislative and executive powers being united, as the noble Duke had applied it; indeed the words of the passage expressly contradicted such an application. There was another part of the same chapter of the President Montesquieu, which was so immediately in point to the present subject, that he could not, his Lordship said, suppress his astonishment at its having escaped the noble Duke's discernment. It was that passage, where speaking of the British constitution, the President declares, that the constitution found in the woods (alluding to its German origin) such as it is, (that is, taking it with all its imperfections)

fections) was superior, in his judgment, to any plan of government possible to be formed by the most refined speculatists. And a little farther on, alluding to those plans of a constitution most favourable to liberty, which Cromwell, as a stroke of art, had ordered to be given in, he says of Harrington's *Oceana*, that in his eager search after a refinement on freedom, and being at the same time ignorant of what true liberty is, he has built a Chalcedon with a Byzantium before him. After remarking upon these strong opinions of the President Montesquieu, in favour of the British constitution, such as it is, his Lordship proceeded to investigate other parts of the noble Duke's speech, and particularly noticed what his Grace had said of the act of settlement. He declared, that in order rightly to understand the true meaning and construction of that act, it was necessary to know the secret history of it. Those who were acquainted with that, well knew, that the framers of the bill never meant it to pass, having clogged it with such clauses as they thought must call forth objections that would be insuperable: the true friends of the bill, however, saw through the artifice, and as the only means of getting what was desirable, consented to take the bad with the good, and wait with patience till the time should come for their repealing so much as was highly objectionable, a time which they knew must soon arrive, if the bill passed. There were in it originally, his Lordship said, several clauses of the most objectionable nature: among others, one declaring that no person holding an office of trust or honour should have a seat in the House of Commons, and others equally improper. It was no wonder therefore, that in an act so passed, what related to the Judges should be loosely expressed. His Lordship contended, however, that it was never meant to cut the Judges off by an act of Parliament from Hope, and he said, it would have been an endeavour, founded on the grossest illiberality and the meanest tyranny, had such an endeavour been attempted. Lord Stormont followed the Duke of Richmond, in a great part of his reasoning, upon the commissions issued in the former periods of our history; and speaking of that, which the noble Duke had stated to have been filled up with lay Lords, said, he hoped he never should have a suit in Chancery, but if he should be so unfortunate, he should think himself still more unfortunate, if the Seals were in any hands but those of lawyers. His

Lordship

Lordſhip compared the preſent independency of the Judges with their ſituation formerly, and in the courſe of this reference to hiſtorical facts, (which, he ſaid, on ſuch an occaſion, muſt neceſſarily be the only reſources to which an ignorant individual like himſelf, could turn for information on a ſubject, where none but profeſſional men could be well inſtructed) mentioned King William having given his negative to the bill for ſettling the eſtabliſhment of the Judges, which in his reign, had paſſed the two Houſes of Parliament. On that occaſion, he declared he thought King William had been very ill adviſed; but ſo the fact was. He alſo mentioned the conduct of James, immediately before the great queſtion relative to the diſpenſing power came on, when that biggoted Prince cloſeted every one of the Judges, one after another, and flatly told them he would have ſuch Judges as acted agreeably to his inclination, and no other. This fact, his Lordſhip ſaid, was indiſputable, for it was admitted by all the advocates for King James, in the ſeveral pamphlets profeſſedly written in his defence ſoon afterwards, who all readily acknowledged the fact, and contented themſelves with reſting his defence for ſuch conduct on the weak declaration, that he had done no more than the Sovereign of a neighbouring kingdom had done repeatedly. His Lordſhip very forcibly pointed out this fact as a proof of the alarming influence of the Crown over the Judges in James's time, and ſaid, if a ſhadow of any thing like ſuch a total want of independency could now be adduced, he ſhould think the preſent motion reaſonable, and even neceſſary.

Lord Sydney.

Lord *Sydney* ſaid it was ſtrange why the noble Lords who had ſpoke on the ſubject, ſhould ſo ſeduloufly endeavour to conceal the real cauſe of the ſeals being put in commiſſion. It moſt undoubtedly could not be for want of perſons qualified for the important office of Chancellor. But even ſuppoſing the contrary, Miniſtry ought not to have been the occaſion of the noble Lord's retiring, who filled that department with ſo much credit to himſelf and advantage to the nation, without they had very good and ſufficient grounds for it. As to the motives which actuated them on the occaſion, they were determined to leave us in the dark, and to with-hold from the public that information, which, in common decency, and in common reſpect to them, they ſhould have made known long ſince. His Lordſhip after this, proceeded to conſider the penſion which had been granted to Lord Loughborough, which, he ſaid, he ſhould not heſitate

to declare to be a very culpable transaction, seeing that it was in direct opposition to the opinion of the House of Commons. He recapitulated the manner in which the matter had been mentioned in the House of Commons, condemned the mode of introducing it, and the thing itself; and after some asperity upon the whole proceeding, reprobated the Minister, who, he said, he heard, boasted of being the creature of the House of Commons, for having dared, after that House had rejected a proposition to encrease the salary of the noble and learned Lord's predecessor, Lord Chief Justice De Grey, as able, as upright, and as deserving a judge as ever sat in Westminster-Hall, to grant a pension to the noble and learned Lord of 1000l. a year addition, and that with a retrospect. This his Lordship called flying in the face of the Commons, and that immediately after they had rejected a proposition for a smaller increase to Lord Chief Justice De Grey. He said, the other Judges might expect a retrospective increase of their salaries, which to those who had sat for some years on the bench, would be a pretty present. He farther observed, that putting the seals in commission had always been complained of by the profession, as a great inconvenience and a very improper thing. He had been old enough to have seen the great seal twice in commission before, since he commenced his parliamentary life, and it was both times thought an improper measure.

Ld. Loughborough.

Lord *Loughborough* said, he never offered himself to the attention of the House under circumstances that required so large a share of that favour and indulgence, of which he always stood in need, and which he was always wont to experience. Indeed, my Lords, he continued, I am in a situation of difficulty; for although all personality has been studiously disclaimed, I am sure all your Lordships feel that the question is purely and entirely personal, and that you would not have had the pain of hearing this discussion, had it not happened that my name was found in the commission lately issued for the custody of the great seal. Under these circumstances, it is not easy to say any thing with propriety, and cannot but be my wish to remain silent. On the other hand, silence would be subject to misconstruction, I have therefore only a choice of evils, and, in speaking, choose the least.

Such was the turn of his Lordship's exordium uttered with a propriety and a feeling which conciliated to him the sympathy of every hearer.

He went on—The noble Duke has ſome little reaſon to complain of my noble friend near me, [Lord Stormont] who, imputing to him a proneneſs to ſpeculation and a love of innovation, has charged the noble Duke with a deſire to introduce, on this occaſion, a theory of his own to your Lordſhips.—My Lords, this is no proof of the noble Duke's wiſh to eſtabliſh a theory; for certainly theory is a term by no means, in no ſenſe applicable to the noble Duke's motion: neither is the noble Earl [Earl of Carliſle] on my right, and the noble Viſcount in any degree inconſiſtent, when the firſt repreſents the motion as highly objectionable, though preceded by that which the noble Duke at firſt propoſed to preface it with, but which he has ſince withdrawn; and when the other repreſents it as, if poſſible, ſtill more liable to objection without that preliminary. In a theory, my Lords, I have been accuſtomed to look for ſomething that has ſyſtem, or arrangement, or method, or deſign, or plan—ſomething that at leaſt repreſents what is to be practiſed—Something, that if the theory profeſſes to be a corrective and improvement, ſhews what is amiſs, and points out the manner in which it is to be reformed. But what, my Lords, has the noble Duke told us? That there is a poſſible remedy for an imaginary grievance; neither demonſtrating the exiſtence of the grievance, nor ſhowing us in what it conſiſts, nor even being able to tell us what is his remedy for this grievance unaſcertained, undeſcribed, and only exiſting in imagination. There is a poſſible remedy not deſcribed, explained, nor hinted at, concerning which the noble Duke has not even given your Lordſhips any grounds for conjecture, and which he does not pretend yet to have diſcovered himſelf; but there is a poſſible remedy—for what?—for an imaginary grievance—for that which he does not affirm to have exiſted as a grievance in fact and experience—for that which has been practiſed whenever the crown in its diſcretion, hath thought proper—with the approbation of all times, uncenſured and uncomplained of, at any time—in which practice the noble Duke does not pretend that there has been any thing grievous to the ſubject—and from which experience, that infallible teſt of political truth, has not ſhewn any one inconvenience to have reſulted.

Your Lordſhips then are gravely called upon to look out for a poſſible remedy for an imaginary grievance—by a motion built upon no baſis, to which no foundation is laid, and which ſtands in air. Before your Lordſhips proceeded to ſuch an

an enquiry, you would doubtless think it for your dignity, as well as your wisdom, to have the existence of some evil ascertained.

The noble Duke has indeed stated a variety of vague and general observations, applied to no one given case, nor applicable to any thing that has actually happened. He does not see any thing that has actually happened. He does not see any thing defective in the present constitution of the Judges, nor in the exercise of the authority committed to them. But to cure a disease that has no existence, and to remedy a grievance that is not felt, he thinks it absolutely necessary to eradicate from the human mind, hopes and fears, to bear away that which is inseparable from it, and on which perhaps much of what is valuable in it depends. My Lords, persons who have speculated upon the mind of man, have represented it in very different lights. Some have conceived of it every thing that was worthy and amiable, every thing consistent with the most perfect rectitude, and most upright integrity. Others, of a more misanthropic turn of mind, and less amiable cast of temper, have treated it as naturally the most worthless and wicked, necessary to be bound down by every chain of law regulation, and only made to consist with the ends of society by the force and effect of penal regulation. Which of these moralists be right, it is of little importance to enquire. To them such disquisitions have been confined; legislators having rarely or never adopted them, but contented themselves with the application of law to any ill habit of the mind, as it became predominant and inconvenient to the just and rational ends of government. But the noble Duke thinks that the hope of being in a commission, which very rarely issues, and is of very short duration, when issued, and the fear of being removed from that commission when in it, may at some time or other, affect the dependence of the judges on the Crown, and operate as powerful temptations to servility and corruption. Upon this argument I shall trouble your Lordships with some observations before I sit down. But I must first beg leave to clear my ground, by disposing of a subject which, very contrary to my expectation, the noble Duke has introduced, and which certainly does not necessarily belong to the subject now immediately under discussion. Indeed, my Lords, I flattered myself, that what passed upon this subject, upon a former occasion, had precluded all farther conversation upon it, whatever might be the disposition

disposition of personal pique or party prejudice to revive it; your Lordships know that I allude to the augmentation which his Majesty was pleased to make of the salary of the Chief Justice of the Common Pleas, since I had the honour to be appointed to that office. I am the more surprized that the noble Duke should think it necessary again to bring forward this subject, because I really imagine that upon the former occasion the account between the noble Duke and me had been completely ballanced, and that I was nothing indebted to him on that score. Upon this conduct of the noble Duke, incidents of a peculiar nature, which have fallen out since, and in which I had no share, will restrain me from saying one word by way of comment, criticism, or note of observation. The matter I am entering into is of extreme delicacy to me, and it is the more painful to me, that upon the former occasion it received an ample, and I then thought, to every person, a most satisfactory explanation. I must therefore rely on the candour of your Lordships, not only to recollect what then passed, but to indulge me in your attention once again to a repetition of it.

Lord Loughborough then stated every thing that related to the augmentation of the salary of the Chief Justice of the Common Pleas; detailed all that had passed in the House of Commons upon the question of the increase of the judges salaries; and corrected several very important mistakes in the account that had been given of it. The whole of this account was acquiesced in on all sides of the House.

Among other things he said—It is not a fair or correct state of it, to say that the augmentation was made against the sense of the House of Commons. The sense of the House of Commons was never declared upon the subject. The noble Lord my predecessor, who did not stand higher in the estimation of any of their Lordships than in mine, from motives of delicacy, did not choose to suffer the question, in which he was immediately concerned, to be agitated in Parliament. Even that noble Lord, who stood so high with the public, was averse to having his great name and respectable character tossed, as was said, upon the waves of the House of Commons, and the business was suffered to be got rid of by the previous question. And in the little conversation that was held upon it in the House of Commons, no doubt was expressed either of the propriety or legality of an augmentation, but it was suggested, that it belonged to the Crown to do it, and that it should be at the expence of the civil

civil list, it being one of the expences for the purpose of defraying which, the civil list had been settled on the Crown. So little foundation was there for saying this augmentation was made against the sense of the House of Commons! As far as he could be supposed to be personally concerned, he was not ashamed to have followed the example of Lord Chief Justice De Grey.

As to the augmentation itself—If the person who now held the office, were alone considered, it was to be sure much beyond his desert; the former appointments were beyond what he could claim any title to. But if their Lordships forgot him, as he trusted they would do, and attended to the nature and rank, the duties and dignity of the office, he believed it would not occur to any one of them—he believed it never had occurred to any man who had the means of forming a judgment, he was sure there was not a professional man in Westminster-Hall, who thought that the augmentation which had taken place, made the emolument of the Chief Justice of the Court of Common Pleas beyond what was proper to preserve the respect and dignity, and to secure the integrity and independence of so high and important a character.

As to himself, when he agreed to accept that high honour, he quitted a very respectable, and certainly very lucrative situation in the profession, and (it was very notorious to many persons) he was given to understand, that the appointments of the high office he was to be raised to, either were, or if they were not, were to be made, permanently equal to what every man felt to be proper for it. Under this assurance, he had certainly accepted the great honour which was offered to him, and had quitted the office he then held, and renounced all the advantages attending the practice of his profession. That which may be done at any time, is very apt to be delayed. It did happen, that from several accidents (which he explained) partly too perhaps from inattention, he was near a year and a half in the office, before he either knew what the appointments were, or upon what footing they stood; in short, he had not received any part of his salary—and when at last, they were examined into and understood, and the necessity for the augmentation was known, and the extent of it ascertained, incidents of little importance in themselves, had occasioned it to be delayed to the time when it actually took place. When it was done, it was not given to him personally and individually, whilst he held the office of Chief Justice of the Common Pleas, or otherways; it was no

partial or particular appointment—it was annexed to the office of Chief Justice of the Common Pleas, and was to go to all his successors in that office equally as to himself. And as he came into the office upon the understanding before mentioned, and accident alone prevented the actual accomplishment of what was always intended, the augmentation had been made to commence from the time of his appointment.

[These are hints rather than passages, of what he said upon that question, and which was so personal to himself, and as no fact or circumstance, which he stated was contradicted, and no dispute whatever arose upon what he said in this respect, we the less regret, that our memory does not enable us to be more particular.]

Begging pardon for this digression, which he did not doubt, their Lordships' candour would attribute to the true cause, he returned to the noble Duke's motion. Since the accession of the present illustrious family to the throne, continued his Lordship, the great seal has been before the present commission, but four times in commission. He did not speak of one commission previous to that period, at the head of which the noble Viscount had said a lay lord was placed. It was of the duration but of a few days; and the noble Viscount, he said, was mistaken, in supposing a lay lord was at the head of it. The noble Lord at the head of it, was not then in a professional office—but he had been an eminent professional man, and at the head of the Court of Common Pleas, though he had then retired.

He should examine, by recurring to the particular instances, whether the commissions, which had been issued, had affected the independence of the judges, or been attended with any one public inconvenience.

He then went through the four commissions particularly.

Your Lordships, he said, must have expected, that the noble Duke would have shewn, either that the independence and integrity of the judges, had been affected by the commissions, formerly issued to them for holding the great seal, or that there was something new and peculiar in the present existing commission—something different from the others, and that rendered it particularly obnoxious to censure and animadversion. No man knows better than the noble Duke as a parliamentary debater, how to take strong ground, or to support himself by argument, where the nature of the thing admits of either; and the silence of the noble Duke on all these, the only topics that could weigh with your Lordships,

carries

carries the strongest conviction to my mind, that all the noble Duke's attention and diligence have not been able to collect any one fact, or discover any one reason, that can be offered as a foundation for the present motion.

As the noble Duke has forborne to offer any thing, where are your Lordships to look for proof, that the independence and integrity of the judges are not sufficiently secured, and that your Lordships' interference is necessary? Upon that subject, there can be but one wish, one sentiment. All who have any affection for the constitution, or reverence for the laws---all to whom the equal and impartial administration of justice is dear, must sincerely and cordially unite in desiring this independence. But who is the man, who will be bold enough to affirm that it is wanting---who will venture to arraign the conduct of the judges---or who will say, that at this period they are less independent, than they have been at any time since the revolution. If we refer to historical testimony, that speaks decidedly against the noble Duke's insinuation, the acts to which the noble Duke has alluded, shew, that it has been the peculiar care of this reign, to confirm and strengthen their independence, and all the measures taken from the revolution to the present time, warrant this conclusion, that that independence is at this moment more carefully and effectually guarded, than at any time heretofore.

His Lordship then went into the consideration of the commission. Has there then, said he, been any thing in these commissions hurtful to the independence of the judges? Let us, my Lords, appeal to fact and experience. Did any of the former commissioners betray an improper disposition to the Crown, or shew less firmness and rectitude of conduct for having been in those commissions? In the first commission were Sir Joseph Jekyll, Lord Chief Baron Gilbert, and Lord Raymond. Was Sir Joseph Jekyll a pliant and accommodating character?---Directly the reverse-- He was inflexible to a proverb---Were the other two? Their integrity and independence were as unshaken and as unsullied, as their professional reputations were high and great, and no doubt had at any time been insinuated against any part of the characters of either of these three most respectable men.

The three next commissioners were Lord Chief Justice Willes, Sir Sidney Stafford Smythe, and Sir Eardley Wilmot. Did their characters afford any thing to fasten on. Nothing could be more fair and spotless. The two first were well known to have been men of the most firm and erect minds.

minds. The last was a judge of the first abilities, and most elevated spirit, and it is most sincerely to be lamented, that bodily infirmities should have brought upon the public, the misfortune of losing such virtue and such talents; but for this misfortune the public service would find in this character either a chancellor, or any other great law officer, that its emergence should require.

He then enumerated the commissioners in the other two commissions, and examined all their characters separately. Among them, he particularly noticed Sir Richard Aston, whom, he said, he had known long, and with whose habits of thinking, he was perfectly well acquainted. A more upright character had not been in Westminster Hall. Of the judicial conduct, worth, and integrity, of another person, [Lord Bathurst] in one of these commissions, his tongue could not utter what his heart felt.

He could not, he said, help remarking to their Lordships that so far from its having been a rule, as had been most mistakenly represented, that the discretion of the Crown should be directed in the selection of commissioners, by a regard to seniority among the puisne judges, that it so happened, that in no one of the four instances, was the senior puisne judge taken from any of the courts, to be a commissioner.

He then spoke of the present judges in general, and took occasion to pay a tribute, that every hearer felt to be highly deserved to the Chief Baron, in terms better conceived and more elegant than any thing of the kind we remember. He introduced it, by observing upon the Duke's having condescended to allude to his Majesty's having been graciously pleased (very undeservedly indeed) to confer the high dignity of a Peer upon him [Lord. L.] He said, if he were not otherways wholly undeserving and unqualified for so high an honour, he flattered himself, their Lordships would not think his having been intrusted with an office of such high professional trust and rank as he held (that of Chief Justiceship of the Common Pleas) rendered him so. Their Lordships and their predecessors had not thought so in the cases of his predecessors, Lord Trevor and Lord Camden. In his particular instance, he said, accidentally their Lordships would derive a great advantage from it, for they would hear the opinions of the judges delivered by the Chief Baron of the Exchequer, whose native and inherent modesty restrained him upon other occasions, when the same necessity did not compel

compel it, from displaying the profoundness of his learning and extent of his judgment.

He spoke with great kindness and affection, as well as high respect, of Mr. Justice Gould and the rest of the judges of the court in which he presides; and among other things said, that the public had obligations to those, through whose means Mr. Justice Heath was placed upon the Bench.

As to himself, he could only say, that since he had been appointed to the office of Chief Justice, he had diligently and punctually attended the duties of the office:—how he had discharged them, it was not for him to determine, but he believed he might, without presumption, say, that neither in his court, nor in that of the noble Lord upon the woolsack, did any suitor wait for that justice, which it depended upon them to administer.

Setting one person in the present commission out of the question, he did not doubt that those who spoke of it hereafter, would say of it, what he had been able to say of the commissions that preceeded it. It had yet existed too short a time to say more of it. Its character yet remained to be formed. It was before an enlightened public, and a learned and critical bar, and it would be judged impartially and correctly by its conduct. All he could individually answer for, was his industry, and the intentions he brought into the commission, faithfully to attend its duties; how these would be fulfilled, time alone must shew—others must judge.

He then returned to the motion, and after some other discussion of it, concluded one of the finest speeches we ever heard, by observing, that even in these days, when nothing, however valuable and respectable, was sacred, when calumny scattered its poisoned arrows with so indiscriminating a hand, not the scowl of envy, not hatred, malice, nor all uncharitableness had been able to cast any stain to, or fix any reproach upon the judges.—He should vote against the motion, because it was founded on nothing theoretical nor practical—because nothing had been offered to shew the necessity or expedience of their Lordships interposition—because no good end could be answered by it--and because every public, every just, every laudable motive concurred not only to the rejection of questions, that tended to an indirect imputation upon the characters of the guardians and interpreters of the laws, but also to the upholding and maintaining them in that high and distinguished public estimation, which they now enjoyed, and which their conduct had so amply and honourably earned.

The Duke of *Richmond* replied, and called what the noble and learned Lord had said, an appeal—not to the passions, but to the feelings of their Lordships. His Grace said, if he came directly to the point, and alledged any specific fact as a subject of a motion, it was directly termed a personal attack; if he spoke at large, without taking certain data, then his arguments were called theoretical, and speculative. There was but one other way, and that was, stating that persons of the profession complained of the late commission as affecting the independency of the judges. Should that be the case, what turn would then be given to his arguments? His Grace reminded the House of his disavowal of any personal intention in bringing forward the present question, and declared upon his honour, he had no such intention. He said, at the same time he cared not whether he was believed by some noble Lords or not. He replied to many parts of Lord Loughborough's speech, and in particular to that part of it, in which his Lordship had talked of his pension of 1000l. a year. The Duke said, however the majority of Parliament had approved of that measure, or might approve of it now, neither the noble Duke near him [the Duke of Portland,] the noble Lord behind him [Earl Fitzwilliam,] his noble relation sitting by him [Lord Keppel,] approved it at the time, nor in short the greater part of the present cabinet. His Grace declared, it was idle to expect success in any plan, or proposition of any plan, of reform which Administration would not countenance; and therefore since the noble Duke at the head of the Treasury declared, he agreed with him in many of his principles upon the subject, but had not made up his mind to the proper remedy, he cared little how his motion was disposed of. He considered the getting rid of any motion by a previous question as a rejection, as much as a direct negative, and always had done so. At present, he would say no more than call for the question.

The D. of Richmond.

The question was read as originally proposed: then the previous question was stated, and being put, was carried without a division.

June 16.

Their Lordships were summoned for the next day, on a matter of importance.

June 17.

The D. of Portland.

The Duke of *Portland* said, that as he understood the business which had been expected to come before their Lordships, and for which they had been summoned, was postponed, he should move for the adjournment of the House, which he did, and the House adjourned accordingly.

June 18.

The petition from the merchants and traders, signed by Alderman Pickett, for preventing the tax on receipts from passing into a law, being read.

Earl Fitzwilliam.

Earl *Fitzwilliam*, on the general principle of petitions against taxes never being received, moved that the present one be rejected.

The Earl of Tankerville

The Earl of *Tankerville* wished, that it might be stated from the woolsack to the petitioners, that such was the general rule of the House, that they might not conceive their Lordships meant to treat their petition with contempt or disrespect.

The motion was put and carried, after which a similar petition was brought up by Lord Sydney from the city of London, which Earl Fitzwilliam likewise moved might be rejected.

Ld Sydney.

Lord *Sidney* said, that as he was the youngest peer in that House, it might appear somewhat presuming in him to arraign a standing order of the House, but he could not suppose there was any such order existing: it would, in his opinion, be highly improper as well as injurious; for in what light must their Lordships be looked upon by the public, when that public understood they were not to expect redress, nay, that the House had a standing order not even to hear their complaints—it was surely highly incumbent on them, when applied to by a numerous and respectable part of the community, to pay some attention to their petition, provided it was worded with proper respect to that House, and not to reject it, either on the principle of its being contrary to a standing order, or from the idea which was pretty generally entertained, that their Lordships were not competent to make alterations in a money bill—this petition was presented from the most respectable city in the world, and he therefore hoped it might be permitted to lie on their table. He however did not mean by this to pledge himself to support

port it; he had informed the gentlemen so who requested him to present it, and therefore they had no right to expect he should.

The Duke of *Chandos* reprobated the idea of that House not being competent to make alterations in any bill that should be sent up from the other House, provided their Lordships found such alterations were necessary, and would be conducive to the wishes and interests of the public at large.

The Duke of Chandos.

Lord *Walsingham* thought, that if the House once permitted petitions against taxes to be received, it would be attended by the most embarrassing consequences; it was impossible to levy a tax that would not be felt by some more than others; and therefore not a single tax, if this was permitted, would ever be suffered to pass, without their Lordships' table being crowded with petitions; upon which account, he thought it would be very proper to reject the present.

Lord Walsingham.

Earl *Ferrars* rose, he said, not only to support the petition, but the dignity of that House. How it ever should have been understood, that their Lordships were not empowered to make alterations in money bills, he could not conceive, or from what principle the other House had assumed to themselves the right of framing taxes which they were to give their assent to as a matter of course, without being at liberty to judge whether they were proper and equitable, or partial and unjust, or to make an alteration, which might be of the greatest advantage to the nation at large. He thought their Lordships were as capable, from their education and experience to amend and frame taxes as this wise House of Commons; they had given proof of their capability of amending, when the cyder tax was brought in; and he was of opinion, that many of their Lordships possessed abilities to produce plans that would be more productive and less injurious than the one now complained of; and surely in such case they were not to be rejected, because they had not been introduced in the other House. He had one in his hand, and which, with their Lordships permission, he would read to them, and if it appeared to them in the same light it did to him, they would adopt it as a tax, in the lieu of that now proposed on receipts.

Earl Ferrars.

The Earl of *Mansfield* left the woolsack, and observed that the question before their Lordships, and for their determination, was, whether the petition should be received or re-

The Earl of Mansfield.

jected? It was not on the merits or demerits of the tax; the proper time for that would be when the bill was under consideration;—with respect to the petition being rejected, on account of there being a standing order that none should be received, was quite erroneous, he knew of no such standing order; but from the inconvenience that would attend such a measure, it had long been the custom, not only of that House but the other also, to reject every petition that should be introduced against a tax; and a very judicious custom it certainly was, for if petitions once found their way into either House, no session would be long enough for government to get through the necessary supplies. He could not see that any attention should be paid to the respectability of the petitioners, as the poorest individuals in this kingdom possessed an equal right with the richest to pour forth their grievances to their Lordships; and he knew too well the impartiality of that House, not to be certain they would meet with equal redress.—His Lordship then observed, that it was a futile idea to suppose their Lordships were bound to give their approbation to a money bill, merely because it had passed in the other House; it was certainly the most proper place to introduce the taxes; but it was then the duty of their Lordships to examine the clauses in the bills with the nicest attention, and point out what they thought detrimental or destructive to the common interest and welfare of the kingdom, regardless of its being objected to when sent back to the Commons; as it was more than probable, that although they might throw out the bill as sent down, they would introduce another with their Lordships amendment.

Lord Thurlow.

Lord *Thurlow* agreed with the last noble speaker in most of his arguments, and observed that he expected the supporters of the petition would have stated some precedents for its being ordered to lie on the table. Two, indeed, had been hinted at; the one he had just looked at the journals for, but found it by no means similar; the other, therefore, he should request the indulgence of the House to have read, which was a petition from the city of London concerning the amendment of the house tax; and if it should prove that was not actually a petition against the tax itself, he should be sorry to see a precedent for such a measure introduced now; if it was one, he saw no reason why this might not as well be permitted to lie on their Lordships' table as the other had been. The petition was then read by the Clerk, when his Lordship observed, that although arguments might be adduced

to

to charge this petition with something similar to the present one, it did not strike him to be so in fact; and finding therefore, that there was no precedent for it, he should be for rejecting it at once, although he saw but little difference between that, and its being ordered to lie on the table, where perhaps it might remain for ever unnoticed. He was very far, he said, from wishing to treat the petitioners with the least disrespect; but yet he did not conceive their respectability was any argument for the prayer of their petition being paid any particular attention to: every petitioner had an equal claim to their Lordships' interference; and it would certainly appear very singular and partial, that one petition should be rejected, and that in the same breath they should receive another on the same subject: this was a method of proceeding that could not be countenanced by that House, and therefore he concluded it would meet with the same fate the one had done which so immediately preceded it.

The question was then put, and the petition was rejected.

The D. of Chandos.

The Duke of *Chandos* begged leave to say a few words respecting the proceedings of yesterday.—His Grace said, that on the preceding day, a noble Lord, high in administration, had moved for their Lordships to be summoned the next day on business of great importance, in consequence of which a great number had attended, some of whom he made no doubt had put themselves to inconveniencies for that purpose, and then they were told by a noble Duke, who was likewise high in his Majesty's service, that the business was not ripe for their consideration; this, he conceived, was not treating that House with that respect it was generally used to receive; and therefore as it was impossible for any person to form any idea of the nature of this important business, he wished to know when it was likely to be brought forward.

The D. of Portland.

The Duke of *Portland* said, that he did not apprehend he was called upon by any rule of the House to make any reply, yet his personal respect for the noble Duke made him rise to assure him, that proper notice should always be given, while he had the honour of being one of his Majesty's Ministers, when either that or any other business of importance was to be brought forward.

The D. of Chandos.

The Duke of *Chandos* did not think that one day was sufficient time to be called proper notice: he likewise said, it appeared to him very strange that business of importance should be so unsettled, that in so short a space, circumstan-

ees should arise to prove it was not ripe for their Lordships' consideration.

The order of the day was then read for going into a Committee of the whole House on the stamp-duty bill, which being gone through, Lord Ferrars rose to propose his substitute for the stamp on receipts; but as the report of the Committee was deferred till to-morrow, he declined of course stating the particulars, and the House adjourned.

June 20.

In consequence of Lord Ferrars' intimation, that he should propose something on the third reading of the stamp-duty bill, in lieu of the tax on receipts, their Lordships waited very near an hour for his coming to the House; which he had no sooner done, and taken his place, than Lord Stormont moved for the third reading of the bill.

Earl Ferrars

Earl *Ferrars* begged pardon of the House for having detained them so long; and said, he must likewise solicit their indulgence to postpone the reading of the bill to a future day. He first assigned, as a reason for so doing, the lateness in the day, as he wished their Lordships would take sufficient time to investigate what he should propose. He then said, he was not fully prepared; and afterwards, that he had expected the assistance of a noble Lord, who he did not then see in his place.

Lord Stormont.

Lord *Stormont* thought it was very singular that the noble Earl should have been prepared yesterday, and would have actually stated his propositions, had he not let the time for so doing escape, and yet find he was not competent for the task to day: it would be very irregular to postpone the bill: his Lordship had said he would make some opposition to it, and mentioned the time for so doing; the House had delayed proceeding, that he might have that opportunity, and if he did not choose to embrace it, he hoped their Lordships would order the bill to be read; which was accordingly done, and passed without any farther altercation.

June 20.

Ordered their Lordships to be summoned for Monday.

June

June 23.

Yesterday the Duke of Portland presented to the House of Peers the following message from his Majesty, which was read by Lord Mansfield, as Speaker of the House:

"George R.

"His Majesty having taken into consideration the propriety of making an immediate and separate establishment for his dearly-beloved son the Prince of Wales, relies on the experienced zeal and affection of the House of Lords for the concurrence and support of such measures as shall be most proper to assist his Majesty in this design."

The same having been read by the clerk, his Grace rose again, and observed, notwithstanding he was satisfied there needed but very little argument to induce their Lordships to acquiesce in the wishes of his Majesty, yet he regretted that a business of this importance had not fallen to some one more able than himself; however, as it was the custom to regulate matters of this kind in another place, he should not enter into particulars, but content himself for the present with only moving, "that an humble address be presented to his Majesty, to return the thanks of this House to his Majesty for his most gracious message; and to assure his Majesty in the most dutiful manner of the hearty zeal of this House, to testify their earnest desire to concur in such measures as shall be most proper to assist his Majesty in fulfilling his desire of making an immediate and separate establishment for his Royal Highness the Prince of Wales."

The Earl of Abingdon said, my Lords, I do not rise to give any opposition whatever to the message which his Majesty has been so graciously pleased to send us. But, my Lords, this message now comes before us under such untoward circumstances, and, like Hamlet's father's ghost, "in such a questionable shape," that, as Hamlet said, "I will speak to thee," not, however, as Hamlet did, with his surprise, but without any surprise at all: for "admiration," says Dean Swift, "is the note of a fool;" and besides this, the coalition I have lately seen has sufficiently taught me the wisdom not to wonder at any thing.—But to the message, my Lords, so provoking question.—A noble Duke, at the head of our affairs, gave notice of a message from his Majesty on Monday last; the House was summoned for Tuesday; the Lords met, and went away as they came, without any message at all—how came this to pass, my Lords? Will the

The Earl of Abingdon.

the noble Duke say, what the public papers have so authoritatively, but yet so libellously, propagated, that his Majesty had broken his word with his Ministry? Will the noble Duke avow this, my Lords? No, my Lords, I trust he won't, because I am sure he can't. And yet if he does not, what apology has he to make to this House? Is it no offence to this House, that it should be called together, and then dismissed without assigning a single reason, either for its being called together or dismissed? And if it be an offence, whence comes the offence? And where does the fault lie? Will the noble Duke be so good as explain this matter to the House? for an explanation at least it certainly deserves. I trust, the noble Duke does not mean to blame his Majesty for the faults of his Ministry; for if he does good God! what a load is he laying upon his Majesty's shoulders! But now, my Lords, the message being come, let us see what this message is, which his Majesty's Ministers have thus advised his Majesty to send us? Does not the noble Duke know, that when the last addition of one hundred thousand pounds was made to the civil list, the then Minister pledged himself to the public, that no farther application should be made to Parliament for the establishment of the Prince of Wales' household? I say, does not the noble Duke know this? And yet those very persons who pinned that Minister down to this pledge of himself to the public, now come in conjunction with him to violate this pledge, and to undo what they themselves had done! Had that Minister done this of himself, had Lord North done this, who told you that he would bring America to the feet of this country, and yet brought this country to the feet of America; who told the country gentlemen that he meant to obtain substantial revenue from America for this country, in order to induce them to go into the war, and then when he had got them into the war, told them that he meant no such thing; who vowed and protested solemnly to God, that he would never give up the legislative rights of this country, and yet was the first to relinquish those rights, not only to America, but to Ireland, unsought for and unexpected by Ireland, as I will some day or other shew, and prove to this House: I say, if Lord North had done this, Lord North had acted but like himself: but that those who set their faces against such act of public fraud and falsehood, should now become, by this act, *ejusdem participes criminis*, is for the politics of the day to account for. Again, my Lords, and

and to prove that I am not miſtaken in ſaying that this meſſage comes to us in ſuch a queſtionable ſhape, was there ever a precedent of ſuch a meſſage before? Never, my Lords, that I know of. Was there ever a precedent of any application to Parliament for payment of the Prince of Wales's debts, as this application, though not expreſsly, plainly is? Never, my Lords; but I wiſh there had been; and then the debts of his Majeſty's royal father had not been, to the diſhonour of this country, at this hour even left unpaid. Was there ever a precedent of the King's Miniſters ſetting up a Prince of Wales in oppoſition to the King? if there be, I am unacquainted with it. There is a precedent of a Prince of Wales being ſet up in oppoſition to his father, as in the caſe of George II. but this was upon very different grounds. It was an act of oppoſition to the King's Miniſters, and not of the King's Miniſters to the King, and, as ſuch, is perhaps not to be wondered at; but that his Majeſty's Miniſters, who are ſo by the breath of his mouth only, ſhould attempt an oppoſition to him, and through ſuch a medium too as this is, is a phenomenon in politics which the preſent moment only can ſhew: and yet, my Lords, when we conſider the cauſe, this is not to be wondered at neither; for what is the cauſe? It is this, the Man of the People is now become the Miniſter of the People, as he himſelf argues and proves, and not of the King: for, ſays he, the vote of the Houſe of Commons has made me the Miniſter of this country, and not the pleaſure of the King; and as the ſenſe of the people is now in the Houſe of Commons, and not at the Shakeſpeare tavern in Covent Garden, where it uſed to be, I will, ſays he, upon the principle laid down by my party, I mean the principle of connection, govern both King and people as I liſt, and treat them as I pleaſe. A principle which, both in term and definition, you will find ſufficiently explained in the creed of that party, as publiſhed ſome years ſince in a pamphlet, intitled, "Thoughts on the Cauſe of the preſent Diſcontents," and which means to ſay, pull down the influence of the Crown in the Houſe of Commons, give me the influence of connection there, which I will erect in its ſtead, and then it ſhall be not *Rex meus et ego*, but *ego et Rex meus*; and as to the people, I know of no people but in the Houſe of Commons, and connection has given me them. This is the principle, and ſuch is the practice attempted upon that principle: but, alas!

alas! as Cadwallader says in the farce of the Author, to his wife Becky, "My dear Becky, how could you have the wickedness to destroy the connection?" whatever virtue there might have been in this connection, they may say, Now, my dear coalition, how could you have the wickedness to destroy this connection? which it has, in God's providence, I trust, done, together with the coalition itself, never more to rise again.

And now, my Lords, I have only one more word to add, and which is this: that, I hope, no one thinks, from what I have said, that I mean any objection to the grant which has been applied for: on the contrary, my Lords, if I have any objection to it, it is that the grant, which is called for, is not sufficiently liberal; for, my Lords, I have none of that parsimony about me, as to think that the dignity of royalty ought not to be supported. Lord North would give an 100,000l. to a contractor of a morning for breakfast, and now, *parco manu*, asks for fifty thousand for a Prince. It is in the former I would exercise œconomy, in the latter not. Besides, the Prince himself is a spirited and a noble youth; I hate to see old heads on young shoulders; and therefore pay his debts; be liberal towards him; take him out of the hands in which he is at present, and I will dare venture to say, that he will hereafter prove both an ornament and a blessing to this country. In short, my Lords, all I mean to say is this, that there is a manner in which things ought to be done, *est modus in rebus*, and it is to this manner, not to the matter, I look. To set father against son, and son against father, may be good treason; but the traitor must be despicable even to himself!

Earl Temple.

Earl *Temple* thought it very requisite that the House should be made acquainted what were Ministers' intentions in this business; at present they were merely told there was to be an establishment; but how much that establishment was to be, they were left totally ignorant; a variety of reports had been set afloat on the minds of the people; and although he by no means wished to see that House act parsimoniously, yet if some of the accounts were true, they were far from meeting his approbation. He therefore requested Ministers would say what were their intentions, that their Lordships might have an opportunity of judging of them.

Lord Stormont.

Lord *Stormont* was of opinion, that there was no necessity for farther information in the present stage of the business;

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it had ever been the general practice, and he doubted not the zeal and attachment of that House would still continue it, on receiving a message from his Majesty, immediately to move an address, expressing of their sense of his royal condescension, and worded in general terms with respect to the business it was about, leaving the discussion of the subject to a future day. The one which had been moved by the noble Duke, appeared to him, as he had just heard it read, to be very proper on the present occasion; nor was this the invariable practice of this House only, for although he had never been a member of the other House, yet he had often heard, and always understood it was their practice also. From what motive or circumstance it had originated that all money matters should be first introduced in that House, he was not competent to say, nor would he enter into the right or propriety of that measure; it was a plain matter of fact, with which their Lordships were well acquainted, that it had long been the custom and usage, and he did not suppose their Lordships wished to make any alteration in that usage in the present case; if they did, however, this was not the proper time for so doing, as they were now merely to determine whether they should address his Majesty for his royal condescension in sending the message which had been presented to them or not.

Earl Temple. Earl *Temple* conceived their Lordships were as much interested in the grant and the dignity of the Prince's establishment as the House of Commons possibly could be, and he must therefore say that Ministers treated that House with some kind of disrespect, in withholding from their knowledge what they meant to propose for his Royal Highness—would they say whether they meant to introduce it on any future day, or whether their Lordships were to wait for its coming from the other House in the common form of a bill; his Lordship then condemned Ministers for having delayed a matter which they knew must come on, and which they themselves said was of importance, to so late a period in the session as the 23d of June, a later period than would have been thought necessary for the most trifling bill; upon this principle he wished them to appoint some day, and not let it be subject to any longer delay.

The Earl of Abingdon. The Earl of *Abingdon* and the Duke of Chandos, said a few words on the same subject, and after them, Lord Temple again rose to urge Ministers to a reply.

The queſtion for the addreſs was then put, and carried *nemine deſſentiente*.

Earl Temple. Earl *Temple* then obſerved, that as the addreſs had paſſed without a diſſenting voice, nay as he verily believed there was not a ſingle individual in that Houſe who had entertained the moſt diſtant idea of making the leaſt oppoſition to it, it was ſurely incumbent on Miniſtry to give them whatever information was in their power; and he truſted ſome one of them would for the ſake of decency, having been thus called upon, get up, and acquaint their Lordſhips in what ſhape the preſent buſineſs was to be brought before them, if they did not think proper to appoint a day for it; the argument for its being firſt diſcuſſed in the Houſe of Commons, had no weight with him; in his idea their Lordſhips were fully competent to the diſcuſſion, and had an equal right to be conſulted on the arrangement. If the Houſe was to be left to their own imagination, and to ſuppoſe it would be brought up as a bill from the other Houſe, they might likewiſe ſuppoſe ſuch a bill would never be brought up; a thouſand occurrences might prevent it; beſides, the lateneſs of the ſeaſon made it improbable to ſuppoſe the Houſe would be conſtantly attended; and upon that account only, Miniſters ought to appoint ſome day for taking it into conſideration.

Lord Stormont. Lord *Stormont* replied to the noble Earl, but reſted principally upon his former argument, and the conſtant practice of Parliament, without either intimating the ſum that would be required, or when it would be brought forward, any farther than its being introduced in the other Houſe, and proceeded on according to the conſtant cuſtom; when it was before their Lordſhips, he ſaid they would have an undoubted right to inveſtigate, and make what alterations they thought proper; but until he was convinced it was the wiſh of their Lordſhips in general, as well as the noble Earl's, he ſhould not be an advocate for altering the common mode of proceeding.

Earl Temple. Earl *Temple* was ſtill diſſatisfied, and ſaid he wiſhed to take the ſenſe of the Houſe upon this buſineſs; and unleſs Miniſters would give the ſatisfaction that was required, he ſhould himſelf be tempted to move for a day, to take the ſame into conſideration; but his Lordſhip not making any motion, nor any one riſing in reply, the altercation ended here, and the Houſe adjourned.

June

June 25.

The order of the day for the second reading of the bill to explain and amend an act of the 11th and 12th of William III. entitled, "An act to enable Justices of the Peace to build and repair jails in their respective counties," being read,

Lord Walsingham.

Lord *Walsingham* delivered his sentiments on the bill at considerable length. He began by complaining of the custom which was now so prevalent of sending up bills from the House of Commons, without authorising some noble Lord to explain their contents to the House. This always was necessary; but more particularly so, when the object was to alter old laws; laws passed in the best periods of our history: such was this bill. It was a bill to alter and extend a law of King William, by which Justices were empowered to build, finish, and repair jails; but then they were to be a majority of the Justices of the county at large. It was stated that there was a difficulty in procuring their attendance; and this act was to enable a majority of the Justices, assembled at the Quarter Sessions, to build, but not, as the former act proposed, to re-build jails. He begged to know if that was mistake or design; if a mistake, it should be set right; if design, it was absurd. It was a great power to give to so small a number of Justices; they might by this bill raise any sum for any purposes of improvement, and to any extent; five Justices might do it, three, nay even two. Surely it should be with a certain check, reserve, and control; and therefore he would propose that they should be invested with power to contract for the buildings; overlook the estimates; settle the plans; but he could wish, that, as so many gentlemen of property in every county were materially concerned in such plan, they might finally revise and approve of such plan, and contract by a majority of the Grand Jury, at the next Quarter Sessions. He professed himself a warm friend to the principle of the bill. He cited the authority of Mr. Howard, to prove the horrid state in which our prisons in this country were at this moment. He described them as being destitute of every accommodation necessary, not for the comfort only, but for the support of life. Neither food, fire, water, straw, light, nor even medicine, were allowed, in some instances, to the unhappy sufferers, who were immured in dungeons; some of them under ground, under water,

loaded

loaded with irons, equally the innocent and guilty, subject to pestilential disorders from being crouded together, and falling unhappy victims to the jail distemper. Did we call ourselves a land of liberty? Did we boast of our civil Government, our laws, our excellent constituation? Was it not true, that the more the country was despotic, the more anxiously were the criminals provided for, and their safety, health, and comfort attended to? It was a great national object, and worthy consideration. Look at the regulations made by the Empress of Russia, so well described by Mr. Coxe, in his visit to the northern courts. See her with a dignity and benevolence of mind, truly worthy of so exalted a character, writing down institutions for the government of her criminals with her own hand: see her attentive to every circumstance of dress, of cleanliness, of separation; ordering that juniper-berries should be burnt in the jails; giving them directions for their food, ordering them vegetables, and using every precaution which came recommended by our own writers, (Mr. Howard in particular) and practised in every country in Europe more than in this. See the court of France delegating to the Parliament of Paris the execution of those salutary regulations which were introduced at the beginning of the present century, and which they have thought fit most wisely to observe. See in Flanders the same regulations prevail: see in Germany, in Swisserland, cleanliness and separation, the leading characteristics of their directions for the management of their prisons. Do not let us shrink at the comparison, and turn aside from it. Let us consider it as an incentive and an emulating inducement with us to outrival them; and to persuade ourselves that slothfulness, disease, and universal corruption and depravity of manners, are not the necessary attendants upon the horrors of confinement. After having dwelt for a great length of time on the management and laws of the different foreign prisons, in all the various countries of Europe, and pointed them out as a great instance of the policy, and test of the character of every State, he came to the subject of *debtors*, who, he said, were unjustly and injuriously mixed with criminals of all sorts—with felons and with murderers, without distinction of crime, age, sex, or education. He said, no system of laws in any civilized country upon the face of the globe, which professed a regard for the civil liberty of the subject, were so ill calculated to reclaim, to reform, to prevent the mischief

they

they professed to remedy, as that of this country. He said, that acts of Insolvency were a necessary, but a fatal remedy. Don't let the number of our debtors, he said, be attributed to our being a commercial country. In Amsterdam there were, at one time, when Mr. Howard visited it, eighteen; at another time, fifteen debtors. It must arise from the internal deficiency of our laws; for in other countries there are few or no debtors, comparatively speaking with our own. In France they bear no proportion to ours. These laws have deservedly, on a former occasion, been the object of consideration in this House, when, by an act, emphatically called "The Lords' act," many comforts were provided for debtors, which did honour to the heads that suggested them, and to the hearts which sympathised in such distress: but these were but temporary and external remedies. Let us now strike at the root of the disorder — revise the whole absurd and impolitic system from the beginning to the end — above all, never consign debtors promiscuously to the company of felons, where the young are not more ready to learn than the old are eager to teach. Let them be kept separate, and out of the way of constant temptation to indecency, immorality, drunkenness, and every other vice which can deprave the human heart. These were regulations which ought to be made; but if he were to introduce them into this bill, he should be told that the expence would make it insupportable, as if the State could not regain by the preservation of the lives and morals of its subjects, the sums of money which such regulations would call for, great as they might be. Look at the splendor and magnificence of the ball rooms — look at the subscriptions to country races — to plates — and to all the fashionable vices and dissipation of the age, and then let us be told that the counties cannot afford a small part of these sums to relieve the agonies of the many who are confined, from misfortunes which they could neither foresee nor prevent — for debts which they cannot pay, and for fees which are illegally extorted from them. However, in the few alterations he meant to propose, he would not lose sight in future, or be understood to give up those excellent regulations, so generally recommended by all modern writers on these subjects; but if this bill could not comprehend them, perhaps a noble Lord, [Lord Mansfield] who was deservedly the ornament of his country and profession, would advise the Judges to recommend an attention to them in their

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different circuits, that might anſwer the purpoſe for the preſent; and whatever came from that learned Lord muſt ſecure public obedience and reſpect.

Ld. Loughborough. Lord *Loughborough* paid a high compliment to the noble Lord, for his benevolent intentions in a matter which moſt forcibly called on the humanity and policy of the nation: but in regard to the alteration ſuggeſted by the noble Lord, he begged leave to ſay, that the Grand Jury ought not to be the perſons to whom the diſpoſal of the money of the county ſhould be left. As a Grand Jury, they might diſpoſe of it; the ſame in their character of Juſtices; that is, the members of the Grand Jury might act. But a Grand Jury was a fluctuating body, exiſting but for a few hours; and they were not the perſons to whom theſe powers had been uſually committed.

Lord Walſingham. Lord *Walſingham* ſaid, he would be happy to agree to the alteration that the noble and learned Lord had ſuggeſted, only obſerving, that the appeal would lie from the Juſtices to the ſame Juſtices, and they would certainly confirm their own contracts. He had thought a wider and more general concurrence would be neceſſary; as, otherways, local intereſt, particularly with reſpect to the ſpot upon which a jail ſhould be built, might, at leaſt, but too frequently prevail, as the various conteſts in different counties, particularly in Eſſex, would enable gentlemen to recollect. He ſaid, he could not tell why, in almoſt every inſtance, particular acts of Parliament were neceſſary for each jail in each county; but ſo it was; that the laſt general bill had been found ſo defective, as never to have been thought ſufficient to act upon; and he wiſhed that ſomebody would explain the point in which that deficiency lay.

Some debate occurred; and the bill was read a ſecond time, and ordered to be committed.

The Earl of Effingham. The Earl of *Effingham* ſaid, as their Lordſhips had been ſummoned, he would take the liberty to mention that, ſome time ſince, he had the honour to preſent to the Houſe ſeveral petitions from different priſons, praying that an act of Inſolvency might paſs, which petitions were ordered to lie upon their Lordſhips' table. The univerſal cry of diſtreſs, which echoed from the walls of every priſon in the kingdom, and the frequency of acts for the relief of the unfortunate, were circumſtances that proved to him ſome great exiſting evil in the laws for the recovery of debt; an evil which, on inveſtigation, he found to originate in a departure from the

ancient and hereditary law, which went not to imprisonment, and from the practice of Judges, who had dominion over jails. This was, however, a matter of such magnitude as not to be fully discussed, and fully enquired into, at so late a day in the session of Parliament; but, with the assistance of their Lordships, he should bring in a bill for the relief of the debtor, and for more effectually securing the creditor, early in the next session of Parliament. At present he meant to ask their Lordships permission to bring in an Insolvent bill, upon the same principles with one which had lately passed, which, as it was well understood by their Lordships, and as no new matter should be introduced, might easily be got through this session; and as the state of the prisons absolutely required such a bill, he trusted it would meet no opposition. An idea had gone forward that when the Prince of Wales came of age, an act of grace was expected; but whether that was to be the case, or whether it was not to be the case, or whether it was customary or not customary, it made no difference in respect to his intention of amending the laws for the recovery of debt, or the present request for an insolvent bill. Humanity to his fellow-creatures called upon him. The interest of the State, and the kingdom demanded it; and he trusted that the attention of the noble Lords would enable him to carry his purpose with effect. Leave was given accordingly.

LORD MAHON's BRIBERY ELECTION BILL.

The Earl of Sandwich.

The Earl of *Sandwich* moved, that the second reading should be postponed to that day two months. His reasons for putting it off to a long day, was to prevent its passing into a law. And he was induced so to do, because he thought that, however well intentioned the principle of the bill might be, yet its clauses went not only to defeat its effect in respect to bribery, but to destroy the inherent rights, privileges, and franchise of the subject. By the bill, as it now stood, a poor man was excluded from voting, that is, the penalty of the offence was tantamount to a prohibition of a voting, for if he received six-pence to defray his expences, he was liable to pay 500l. Five hundred pounds to a journeyman handicraft was imprisonment for life. The bill stated, that it was to prevent expences at elections, but it went to encrease them; for according to the tenor of wording it, noble Lords must confess the fact, there was to be an agent ap-

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pointed to every coach, chaise, diligence, and horse at every inn on the roads all round England, to the places of election, in order to provide beds, dinners, and suppers for the freemen, burgesses, and freeholders as they passed and repassed to and from the place of election. Such, he said, would be the situation of those voters, not inhabitants of the town or city where the election was held. Was this serving the country? Was this providing against bribery in election? No, it was destroying the freedom of the one, and encouraging the propogation of the other. It was, in fact, a bill of absurdities, and such as was fraught with much mischief to the constitutional freedom of election.

The Earl of Radnor.

The Earl of *Radnor* replied, that although he coincided with the noble Lord who spoke last, in respect to the enormous penalty of 500l. yet he thought, that by amending the bill, it might be made a good one. An idea, indeed, might start, that as it was a money bill, and as it merely respected the privileges of the Commons, they might throw it out if it was altered. But he believed the contrary. Yet if they did so, both Houses might then come to an understanding, that something of the kind ought to be done, and a new bill, conformable to the sentiments of both, be brought in accordingly.

The Earl of Sandwich.

The Earl of *Sandwich* observed, that as the noble Lord thought the bill objectionable, it became a farther reason with him to continue in his reason for putting it off to a long day. There seemed, he said, to be no argument in favour of it.

The Earl of Coventry.

The Earl of *Coventry* thought it should go into the Committee at least. He did not see the objection in those strong points of view in which they appeared to the noble Earl, and he thought that a day or two spent in election by a tradesman, without being paid for his attendance, would no more injure him than so much holiday time spent on Easter Monday.

Ld. Onslow.

Lord *Onslow* was clearly of opinion, that the bill should not pass into a law, as it would, in effect, disfranchise all non-resident fremen, and thereby injure the right of election.

Ld. Sydney.

Lord *Sydney* was for committing the bill, as he thought it would answer the end proposed.

Lord Stormont.

Lord *Stormont* was of a contrary opinion, and contended for the right of postponing it for two months, and thereby getting rid of a matter, which, if it was carried into a law, would

would do a most essential mischief to the constitution, without any one advantage arising from it.

Earl Ferrers — Earl *Ferrers* said, it was not a Money bill, nor did the Commons consider it in that light, as they ordered it to be printed.

The Earl of Effingham. — The Earl of *Effingham* said, that bribery in elections was evident, and that some mode ought to be adopted to prevent it; and he saw none so likely to effect it as the present bill, if passed into a law.

The question was then put, and the House divided — Contents and Proxies for Lord Sandwich's motion, 18; Non-contents and Proxies, 16. The bill was therefore thrown out by a majority of two.

June 30.

The Earl of Effingham. — The Earl of *Effingham* addressed their Lordships on the subject of an Insolvent bill; and having, with the manly sentiments of liberality, which are ever the characteristics of his nature, urged the necessity of the interference of the legislature to rescue the multitudes of unhappy men now starving in our prisons, and to restore them to society and to their relatives, he stated the various arguments that were adduced both for and against those temporary reliefs; acknowledged that they had their evils, and that it became their Lordships to enter seriously into the revision of our laws between debtor and creditor, and provide some fixed and permanent rule. In the mean time, as our prisons were crowded, another act, in his mind, was absolutely necessary; the bill which he meant to move for was on the plan of that which was passed in the year 1776. He moved for leave to bring it in; leave was given, and he brought it in, and moved that it should be read a first time.

The Earl of Abingdon. — The Earl of *Abingdon* said, that he had objection to those temporary reliefs, and wished that something was done of a permanent nature.

The Earl of Effingham. — The Earl of *Effingham* said, that there was not now time to go into the necessary revision of the laws, and he had not been able to bring in this bill sooner. He had received about 180 letters, each of which he said was a tragedy.

Lord Walsingham. — Lord *Walsingham* said, he was an enemy to these acts, and, feeling as he did, that they were exceedingly inconvenient and objectionable, he wished their Lordships would decide on the matter at once, as there would be less cruelty in re-

fisting the application at first, than in giving the unhappy people delusive hopes.

The Earl of Mansfield.

The Earl of *Mansfield* said, he had his objections to a partial bill, which that of 1776 was; the errors of that bill had been amended in the subsequent ones, and why the noble Earl had chosen that model he could not imagine.

Lord Visc. Stormont.

Lord Viscount *Stormont* moved that the bill should be printed, and then their Lordships would see at once what it was, and be able to decide with propriety.

The Earl of Effingham.

The Earl of *Effingham* said, it was unnecessary to print it, as it was the same as that in 1776, all except the three last clauses which were omitted. His Lordship again went into argument on the general necessity for such a bill. He said he could produce 150 letters, each a tragedy, as deep and interesting as the Fatal Curiosity, or any other favourite and affecting drama on the stage. Every letter, he said, contained a lively history of the distresses of a family; and he was sure, when read, must move all their Lordships to compassion.

The Earl of Mansfield.

The Earl of *Mansfield* said it must be printed for the sake of regularity. With regard to the bill's being a close copy of the act of 1776, it was a strong objection against it. In every new Insolvent bill that was brought in, Parliament had taken special care to avoid the errors of the last act, and to improve upon all former bills of that nature; to go back, therefore, to the act of 1776, since which period two or three Insolvent bills had passed, was to adopt old errors, and not to profit by past experience.

The Earl of Effingham.

The Earl of *Effingham* rose again, and urged the necessity of avoiding delay as much as possible: he repeated it, that it was utterly impossible for him to have brought in the bill sooner; as the bill therefore was in all their Lordships' libraries, he hoped they would dispense with printing it again. In order to shew how much humanity was interested in the bill, he would state a single instance of hardship, which he trusted all their Lordships would think ought to be relieved without delay. When the prisons were burnt three years ago, a man was in the rules of the Bench; having never been out of confinement, such as it was, into which he had thrown himself, he never thought it necessary for him to visit the Justices at St. Margaret's Hill to enter his appearance, and thererefore, when he came to take the benefit of the Insolvent act that passed soon afterwards, he was told that he had not surrendered by the appointed day, and for that reason

ſon could not derive any benefit from the act. His Lordſhip deſcanted on this fact, and urged the Houſe to join him in a matter in which he could have no poſſible intereſt whatever. He hinted at ſome complaints which had reached his ear againſt the Judges,* as if they had been the cauſe of the fullneſs of the priſons; but he ſaid, unleſs he was forced to it, he wiſhed to complain of no man.

Lord *Walſingham* expreſſed his diſlike of all ſuch bills as the preſent, and his determination to oppoſe it. Other Lords feeling, he preſumed, as he felt upon the ſubject, he thought it would be more adviſeable to oppoſe the bill then in its firſt ſtage, than to waſte the time of the Houſe, and in an expence of printing, and diſcuſſing it hereafter. Lord Walſingham.

The Earl of *Abingdon* again ſaid a few words in diſapprobation of the preſent bill, as a partial one, which did not, in his opinion, hold out equal juſtice. The Earl of Abingdon.

At length the queſtion was put, and the bill was ordered to be printed.

The Duke of *Portland* brought down a meſſage from the King, ſaying, that in conſideration of the eminent ſervices of Admiral Lord Rodney, he had thought proper to beſtow on him a penſion of 2000l. a year, to continue for his own life, and thoſe of his two ſons; and truſting that their Lordſhips would concur with him in this meaſure. [The meſſage was the ſame as that to the Houſe of Commons, which we have inſerted *literatim*.] The D. of Portland.

Lord Viſcount *Keppel* ſpoke in very warm terms of the conduct of Lord Rodney, and ſaid, that he was ſenſible it would be unneceſſary for him to take up any of their Lordſhips' time in ſtating either the merit or the gallantry of his ſucceſſes, as a ground for a motion which he propoſed, for an addreſs to the King, in anſwer to the meſſage. He concluded with moving the addreſs, and it was agreed to *nemine diſſentiente*. Lord Viſc. Keppel.

The Duke of *Portland* then preſented a ſimilar meſſage from his Majeſty, ſtating that he had granted a penſion of 1500l. a year to Sir George Auguſtus Elliott for his own life and that of his ſon, in conſideration of his moſt gallant ſervices. His Grace then moved for the addreſs, and it was alſo voted *nemine diſſentiente*. The D. of Portland.

REFORM BILL.

As the order of the day was called for, Earl *Temple* roſe, and ſaid that he wiſhed, before their Lordſhips proceeded to the Earl Temple.

the second reading of the bill, to move that the papers should be submitted to their Lordships which were laid on the table of the Commons, and which he conceived to be necessary as documents for their Lordships, by which they could decide on the merits of the proposed reforms. He wondered, indeed, that Ministers did not think it necessary to move for these papers themselves, as it unquestionably was requisite to the proper understanding of the matter that the accounts should be before them. He concluded with moving for the papers.

Earl Fitzwilliam.

Earl *Fitzwilliam* said, that in the present stage of the bill he did not comprehend either the propriety or the use of moving for these papers. If it was necessary to have these papers before them, it was proper to call for them at an earlier stage. They took a considerable time in preparing; and they were not essential, at any rate, to the second reading of the bill.

The Earl of Abingdon.

The Earl of *Abingdon* said, that he very much approved of the motion, and thought it highly requisite that the papers should be laid before the House.

Lord Vis. Stormont.

Lord Viscount *Stormont* agreed with Earl Fitzwilliam in thinking that it was highly improper, because perfectly useless, to call for the papers in the present stage of the bill, because to the second reading of the bill they were not essential. Ministers had not called for the papers, because unquestionably their doing so would have been considered, by some men, as a motion intended to operate against the bill. But the argument which chiefly had weight with him was, that the law, as it at present stood, was, in his mind, fully sufficient to the prevention of all the abuses which it was the purpose of the bill to reform. His Lordship desired their Lordships to attend to the peculiar phraseology of the preamble of the bill, "Whereas it is highly expedient, for the correction of abuses which *may have arisen*, and with a view to such savings as *may be made*," &c. This mode of wording a preamble, his Lordship remarked, decided nothing; stating only a possibility, it was open to two conclusions, either that the abuses in question *may have arisen*, or *may not have arisen*, and so with the savings, that they *may be* made, or *may not be* made. It was clear, therefore, that the papers could be of no use, and therefore, as the ordering them would only create delay, he should object to the motion.

Lord Sydney.

Lord *Sydney* contended, that their Lordships could not go on with the order of the day, nor enter with regularity into the

the discussion of the principle without the papers, which, as they had been laid before the Commons, he conceived would not have been with-held here.

Lord Thur-low.

Lord *Thurlow* said, he wished no more than the noble Viscount for this, or any bill, if the laws were already sufficient to correct abuses; but he wished to examine that fact, and therefore he wished for the papers. They would occasion very little delay, as he would pledge himself that a stationer's clerk should copy them all, 27 in number, in 24 hours, if he had admission to the Treasury.

Ld. Lough-borough.

Lord *Loughborough* said, he could not conceive the utility of their production in any respect. To the principle of the bill they could have no relation, and it would be at any rate prudent to see if the House went into a Committee, before they ordered the papers that could only be useful there. His Lordship declared he had read it attentively, and he was persuaded the bill must be altered; and if it was altered, being a money bill, the House knew it would be lost. What he alluded to, his Lordship said, had, he was persuaded, escaped the notice of those who drew the bill. They had forgot that Parliament had just passed an act for the entire regulation of the Pay Office, and yet the Pay-Office was one of the objects of reform in this bill, so that the Commissioners of Accounts were, by this bill, to be invested with full power to repeal every clause of a bill just passed into a law. Another thing that must be corrected was this: by a clause in this bill, the Commissioners of Accounts were empowered to administer an oath to persons selling offices. Did their Lordships know, that there was a statute now in force, declaring the sale of an office an indictable offence, would they then give an oath to persons to accuse themselves with an indictable offence? Such a violence could not pass. Justice, humanity, common sense forbad it!

Lord Thur-low.

Lord *Thurlow* rose again and replied. His Lordship scouted the idea of the 5th and 6th of Edward V. applying to the extent that the noble and learned Lord had asserted. He also denied that the Lords had no power to alter money bills. He said, each branch of the legislature having co-ordinate power, might do what it pleased undoubtedly, but it was absurd to say the House of Lords could not act independently in every sense of the word. If they altered a money bill, and the bill was important, the Commons, for form sake, rejected the altered bill, and instantly brought in

in another, word for word the ſame, which was paſſed without the ſmalleſt debate. So with reſpect to Ireland; it had been his lot to have ſtruck out whole folios of bills from that country; and when they were returned, the Iriſh Houſe of Commons received them with the utmoſt indignation, and kicked them out of their Houſe; but the next day other bills, identically the ſame with thoſe they had ſo ignominiouſly kicked, were brought in and agreed to without a murmur. In the courſe of his ſpeech, his Lordſhip ſaid, he learnt from thoſe newſpapers, in which ſome of the beſt thoughts of Government were well known to be conveyed to the public, that they were often hardly treated, and much abuſed, but he hoped they would not be voted uſeleſs yet. They were of ſome uſe, if it were only for being the tools of Miniſters to do that, which they themſelves dared not in their own perſons venture to do, when they were embaraſſed how to reconcile the character of the Miniſter with that of the Man of the People, or when the profeſſions made in one character ran counter to the wiſhes entertained in the other.

The Earl of Mansfield.

The Earl of *Mansfield* left the woolſack, to call their attention back to the queſtion, which he did with great accuracy.

Lord Thurlow replied; Lord Coventry and Lord Ravenſworth ſaid a few words; and at length the queſtion was put, contents, 22; non-contents, 32.

The order of the day was then read, for the ſecond reading of the bill for a reform in the public offices; upon which

Earl Fitzwilliam.

Earl *Fitzwilliam* went through almoſt every clauſe, and in general condemned the bill as futile and trifling, holding out a plauſible appearance, but would not in fact be of the leaſt ſervice to the public; and therefore as it appeared to him to be calculated to give more trouble than advantage, he ſhould give it his negative in the preſent ſtate, to avoid the unneceſſary inveſtigation in the Committee. His Lordſhip admitted, that abuſes might prevail in the ſeveral offices enumerated in the bill; but if they did, he thought the executive Government had full power to enquire into thoſe abuſes, to aſcertain what they were, and to what extent they prevailed, and to apply an effectual remedy. Allowing, however, for the ſake of argument, that they had not, he did not approve of the mode of correcting them which the bill held out, nor did he imagine, any Board of Treaſury would be at all pleaſed with having ſuch a taſk impoſed

on

on them, as was therein provided. He pointed out the irksomeness of the proceeding, which the Board of Treasury must institute under the authority of the bill, if it passed into a law, and clearly shewed that it would prove so disagreeable and embarrassing, that it would greatly impede other public business, while it subjected the Treasury to a situation extremely awkward and distressing. He next took notice of the proportion, or rather the disproportion between the penalties and the offences, described and made penal offences in the bill, and contended, that the one so far exceeded the other, that it was contrary to every notion of justice, that such penalties should be incurred by such offences.

The Earl of Abingdon.

The Earl of *Abingdon* rose to give his entire concurrence and support to this bill, a bill that came before their Lordships, not, it is true, in the beautiful and sublime, but in a much more explicable shape, in the true stile and spirit of reform, in the stile and spirit of enquiry, in order to reform, and not, in the more beautiful and sublime way, of reform first, and enquiry after; a bill, therefore, which could not fail to meet with the approbation of their Lordships, because from such approbation no inconvenience whatever could possibly arise; for if enquiry did not lead to reform, no reform would take place; but if it did, which of their Lordships was it that would shut his eyes against it? But he wished not to be too sanguine. The Tory part of the Administration might, but the Whig part of it, as was wittily distinguished by a very respectable person in another House, could not: The Minister himself could not; and in so doing, could set an example to his colleagues, which, out of shame, if from no other motive, they perhaps would follow. His Lordship said thus much, because he would not suffer a bill, of so much propriety as this to pass with a silent vote only of his.

Earl Temple.

Earl *Temple* said, that as their Lordships had thought proper not to indulge him with those papers he had before moved for, for his information in this matter, he could not enter so fully into the merits of the bill, as he otherwise would have done, but should be obliged to confine himself to what he had by other means been able to collect—he had a paper, which he then took from his pocket, which would in a great measure assist him; it was not, he said, a copy of those papers that had been laid upon the table of the House

of Commons, but merely an extract from them, it however contained every advantage, and the particular sum that had been made in every public office under the denomination of fees, gratuities, or gifts. His Lordship went through each different office, and expatiated pretty largely on the impositions that had been exacted from the public under these different claims. Some of these officers, he said, whose salaries did not amount to more than 200l. per ann. made from 2000 to 2500l. by these fees, perquisites, or as they were termed by the Victualling and Navy Offices, gifts; and these men were those in whose department it was to inspect the different accounts; and it was therefore natural to conclude, that extra charges were permitted to pass, in proportion to the value of the presents; his Lordship enumerated a variety of instances, some of which came within his own knowledge, wherein the public property was most shamefully squandered; he likewise reprobated the idea of suffering places to be sold, as this, he observed, gave men a kind of licence, or at least quitted their consciences for taking every advantage; he had once seen a letter, wherein the agent, who had the disposal of the place, had stated to a young fellow, whom he wished to induce to make the purchase, first the salary, then what were his legal perquisites, and afterwards what an opportunity he had to practise every species of fraud and villainy, and what sum he might make by it: when a man had made a purchase under these conditions, and paid accordingly, it was no wonder he thought himself entitled in some measure to put those advantages in practice. It had been observed that Ministers were competent to correct these abuses; what a shameful, what a scandalous neglect was it then in them to have suffered them to have been so openly, so glaringly pursued! He declared he had not the most distant idea to cast the least reflection on any officer, it was the practice of office only he meant to condemn, and which he hoped to see reformed, and which in a great measure would be effected by this bill; some parts of it might want correcting, but that their Lordships would be fully able to accomplish when it was before them in the Committee; but whatever should be the fate of the bill, he thought it would stamp everlasting fame on his honourable relation for framing it. His Lordship went through all the detail of the abuses stated to prevail in respect to persons in office being supplied with things at their own houses, to repairs of the houses held under Government, to the improvident con-

sumption

ſumption of ſtationary ware, and of other ſtores, in like manner, as they had been gone through in the other Houſe, when the bill was under conſideration there, but he ſtated ſeveral new facts, and introduced an abundance of appoſite obſervation and remark. In ſpeaking of the abuſe practiſed in regard to the ſtationary, he ſtated Lord North's having conſumed the laſt year he was at the head of the Treaſury to the amount of 1300l. worth, and the two Secretaries to the Treaſury nearly the ſame amount between them. He mentioned alſo the quantity uſed at the Poſt-Office; and took notice of the ſaying that was formerly applied to a fine houſe erected on a certain part of the eaſtern coaſt of the kingdom, viz. "That the bricks had been burnt with Poſt-Office paper." He likewiſe took notice of the quantity ſent to the Admiralty, to the houſes of the Lords Commiſſioners, and in particular laid his finger on the exorbitant fees demanded once every four months for protections, which were generally granted to a deſcription of men who were the leaſt able to pay extravagant demands of office. In that part of his argument, which went to the clauſe reſpecting the repairs done to the houſes of Government by the Board of Works, he mentioned their own houſes, and the expences they coſt the public. He ſaid, it had been reported, that the houſe of the Surveyor General on Hampton Court Green, had coſt five thouſand pounds a few years ſince. He alſo adverted to the Chancellor of the Exchequer's houſe in Downing-ſtreet, and the repairs done to it the laſt year, as well as to the houſe in Buſhy Park. With regard to the Ordnance, that, he ſaid, was a gulph of abuſe into which he would not then plunge. After going through an infinite variety of remarks, all ably ſtated, he at length concluded with earneſtly preſſing Miniſters, for their own reputation, not to attempt to get rid of the bill in that ſtage of it.

Lord Keppel.

Lord *Keppel* declared that moſt parts of the abuſes which the noble Lord had ſtated from the paper he had referred to, as far as reſpected the Admiralty, were erroneous; with reſpect to the article of ſtationary, which appeared a great charge againſt every office, he did not think it poſſible to be carried to that length the noble Lord had ſtated it; he wiſhed, for his part, he was not allowed a ſingle ſheet of paper, ſo as at the ſame time he ſhould not have a ſingle letter to write: he would, however, have that, as well as every other abuſe heard of, enquired into, and regulated to the utmoſt of his power.

Earl Temple.

Earl *Temple* assured the noble Lord he had long possessed the highest opinion of his integrity, and therefore could not be supposed to have cast the least reflection on him.

Ld. Townshend.

Lord *Townshend* thought the noble Lord had cast reflections on the Board at which he presided, that it was very far from deserving; it did not merit the phrase of a great gulph of abuse; every species of reform had been undertaken in that department: the noble Duke, who had lately filled that station, had suggested plans of reform which had been put in force, and were found in several instances to answer the purpose: it mattered not to him how much the noble Duke and he might differ in some things; where he found the noble Duke had formed plans for the advantage of the country, he should think himself a villain if he did not continue them; nor would he hesitate a moment to give that praise which he conceived to be his due. He had borne hard on poor individuals, but he had in some instances essentially served the public. His Lordship then in a plain, manly way spoke of the office in question; he said, the present bill would give the Lords of the Treasury a greater influence over the Board of Ordnance than they at present possessed. Formerly they had a greater influence with respect to it than they had now. His Lordship explained this by mentioning that Mr. Grenville (Lord Temple's father) had introduced an alteration, in consequence of which, what used formerly to be under the controul of the Treasury, was now thrown upon the Ordnance Board, and that was the expence incurred by Governors abroad, in erecting such fortifications as they might think necessary for the defence of their islands, colonies, &c. Having stated this, his Lordship went into a course of remarks on the possibility of the prevalence of abuses. He was not to learn there had been most shameful abuses in many of the public offices, and did not doubt but he should be able in a short time to bring some of them to light; he only waited for proof, yet he did not wish to procure it in the manner this bill pointed out, as he should be very sorry to make any man criminate himself. This country had been greatly reduced by flagrant neglects and shameful abuses; and he saw no way for her to recover her lost fame but by a strict reform and well-suggested œconomy: nevertheless, as he did not perceive that matters would be in the least mended by this bill, he should give it his negative.

Earl Temple.

Earl *Temple* explained with regard to the words abyss, a gulph of abuse, and declared that he meant no censure on the

the noble Lord. He joined with all the world in admiring the nobleness, integrity, and independence of his mind.

The Duke of *Portland* profeſſed himſelf to be a very great friend to reform in every department of the State; but he conceived it to be very eſſential to diſtinguiſh between that which was really reform, and what was ſpecious. He was anxious for popularity; but he wiſhed that popularity ſhould be the conſequence and not the cauſe of his actions. For this propoſed or a the nation were to pay, before they obtained it, 141,000l. and it was to be twelve years before they began to ſet about its eſtabliſhment; for ſo long time it would take, and ſo much money it would coſt to make the neceſſary enquiries, preparatory to the buſineſs coming under the eyes of the Treaſury, and before they could take the matter into their review. This he drew from the experience they had already had. His Grace reminded their Lordſhips that the Commiſſioners of Accounts, who were ſuch favourites with the public, and whoſe well known ability and integrity juſtly entitled them to be ſo, had been ſeven or eight months in enquiring into three only of the public offices, and in the courſe of that enquiry they had merely examined about thirty perſons. His Grace ſaid, he did not mention this with any deſign to find fault with the gentlemen in queſtion, nor to impute the ſmalleſt degree of blame to them but merely to draw the attention of their Lordſhips to a fact, which it was of importance that they ſhould hold in their view while they conſidered the preſent bill. That bill referred the Commiſſioners to twenty-two different offices, and they would have to examine between ſix and ſeven thouſand perſons. In order, therefore, to enter upon ſuch a large field of buſineſs with any ſort of expectation of getting through it, there muſt, if the bill paſſed, neceſſarily be two or more additional Commiſſioners, with additional clerks; ſo that the operation of the bill would ſet off with ſaddling the public with an expence of 12,000l. a year, and, in all human probability, the enquiry would laſt many years; and, after all, when the Commiſſioners of Accounts had done their duty, the Commiſſioners of the Treaſury would have to begin their taſk, ſince their fiat was to govern all the proceedings antecedent to the appeal to Parliament. The Commiſſioners of the Treaſury, he ſhould ſuppoſe, would think it neceſſary to follow the Commiſſioners of Accounts, and re-trace the way they had come ſtep by ſtep. And in the mean time,

The D. of Portland.

without all this waste of time and money, the whole of the reform might be produced by the mere integrity and vigilance of Ministers. The present laws were amply sufficient, if the laws were enforced. It had been his care, as it was his duty, to see that they were enforced; and the penalties were already so heavy, and so easily to be prosecuted for and obtained, that he conceived it to be totally unnecessary to go farther. He stated various objections to the bill itself; some of its provisions were exceedingly unwise, but on these he would not enter, as the whole of it was unnecessary.

The Earl of Ferrers.

The Earl of *Ferrers* made a short speech in favour of the bill: his Lordship thought the respect they owed to the other House, added to the high character of the right honourable gentleman who first brought it into Parliament, ought at least to weigh with them so far as to induce them to let it go the length of the Committee.

Lord Thurlow.

Lord *Thurlow* spoke with great and powerful energy in answer to the noble Duke. They would find no man less disposed than himself to yield to the torrent of popular clamour; but he did not imagine that the grave and sober wisdom of the House of Commons was to be called by that name. They had, with one voice, sent up this bill, and it at least deserved to be deliberately considered before it was rejected. He observed, that it was admitted, that the abuses it professed to correct really subsisted; and he wondered how, that being the fact, it should be thought right to put an end to the bill in so uncandid a manner. He said, he felt for the reputation of Ministers; and, as the well-wisher to those men of honour and honesty who were members of Administration, he would advise them not to rest on the pledge the noble Duke had rashly hazarded. With regard to the loss of popularity, that was not an object to be regarded. He who rested merely on popular opinion, and the empty clamour of a newspaper, was an object only of the contempt such supports deserved. What he advised the noble Duke to avoid was, the condemnation of wise, temperate, and thinking men, who never judged rashly or hastily, but upon mature reflection, and well-warranted conclusion. All such men must condemn an act of so much littleness, as a determination to get rid of the bill without a due investigation of its premises. He ridiculed the arguments of the opposers of the bill in strong terms, and said, after the rank and scandalous history of abuses that had been stated by the noble Earl who spoke some time since, (for a his-

a hiſtory it was) he ſhould not have imagined that any one man hardy enough to oppoſe the principle of the bill could have been found. He denied that the length of time it would coſt the Commiſſioners of Accounts to comply with the terms of the bill depended on the number of perſons to be examined, and ſaid, that it by no means followed, that becauſe they had been ſome months examining a few, they muſt neceſſarily be many years examining a greater number. He declared that he concurred in principle with thoſe who oppoſed the bill, as to the impropriety of taking any thing out of the hands of the executive Government, which it had the power purely to accompliſh; but they ought to examine with conſiderable minuteneſs and attention, whether they had that power or not. It was not ſufficiently ſatisfactory to him, that one noble Duke, however high the noble Duke's character, ſtood up and pledged himſelf vaguely and looſely, that he would begin the reform in queſtion. The reform was wanted; it was loudly called for; and the beſt means of effecting it would be to do it in the face of day, publicly and openly. He ſaid, a great deal of good had already happened in conſequence of the buſineſs having been brought into diſcuſſion. That good Miniſters could not take away; but if they refuſed to go into the Committee upon the bill, they clearly rendered the good already done of as little uſe as poſſible. His Lordſhip ſaid, many of the abuſes ſtated by Earl Temple from the paper he had read, were ſuch as were cognizable and puniſhable as the law ſtood. He aſked what the Attorney General was doing? Had no ſuch proceſs as an Engliſh bill been ever heard of? If the Attorney General did not ſpeedily take up ſome of the facts that had been that day ſtated, that officer would, he ſaid, be animadverted upon in a manner not much to his credit. He denied that the laws, however well adminiſtered, were already ſufficient for the redreſs of the evil. It was not in the power of the beſt Miniſters to do all that was neceſſary, even ſuppoſing that we ſhould always have good Miniſters. But in caſe that we ſhould at any time have Miniſters bankrupts in fortune and in name, what bond had the nation againſt them? None; and the preſent bill was requiſite. He was no friend to the diminution of the influence of the Crown. He thought that it was not adequate to the neceſſary functions, much leſs dangerouſly great; for he was not one of thoſe who thought that the Crown ſhould be ſo pre-

carious as to be put under the control of a faction, and that its dignity should be lowered by the caprice, or the humour of either this or that set of men. He instanced a variety of cases in which such an act as the present was really wanted, and said that it had his most hearty concurrence.

Lord Visc. Stormont

Lord Viscount *Stormont* entered at length into his reasons for thinking that the present bill was very defective in principle, as well as unnecessary. It gave most extraordinary powers to the Treasury, and diminished the necessary power and the dignity of the other officers, in a manner very inconsistent with the duties which they had to discharge. It was to force men into situations the most irksome of any that could be imagined, in which the danger would be greater than any inducement of advantage; and all this was to be done for a reform within the reach of any honest Ministry, without the delay, and without the expence of the present bill. His Lordship remarked, that several of the great offices of the State had ever been distinct and independent. But this bill gave the Treasury a painful pre-eminence over all of them, and made every one of the rest subject to its control. With regard to fees and perquisites, he shewed in a variety of instances, that it would be a manifest injustice to take them away, and a great public detriment were the quantum of fees taken, with an ample statement of the grounds upon which they were received, exposed to public view. He mentioned the Secretary of State's office in particular, as an office in which a great deal of business was done by clerks who received no salary whatever, but were merely paid by perquisites. He stated two or three grounds on which it would be unjust as well as inexpedient to change the mode in which some of the clerks of the Secretary of State's office were now paid. He pointed out the preposterous idea that was to be found in the bill, it obliging the Board of Treasury to give an account of the fees, &c. of its own officers, to the Commissioners of Accounts, and to receive their reports, with which it gave them a power to do just what they pleased. He compared the bill to the dreams of a hermit in his cell, or to the fanciful picture drawn by a visionary speculatist in his own chamber, where the figures and the pictures are more or less fantastic, according to the brilliancy or gloominess of the imagination of the speculatist. Having very clearly demonstrated, that the bill could not be carried into practice without great inconvenience, delay, and expence, his Lordship

said,

said, he should give the motion for its being committed his direct negative.

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The bill was in consequence rejected, and the House adjourned immediately, it being ten o'clock.

July 1.

The following protest was entered on the journals, against the proceedings on the bill, entitled, "An act for preventing abuses, and establishing certain regulations, in the several offices therein mentioned:"

DISSENTIENT,

I. Because the information laid before the House of Commons, authenticating many facts of gross abuse and mismanagement, upon which it is presumed this bill was there passed, was refused by a majority of this House.

II. Because various facts adduced in debate, to prove the existence of gross abuse and mismanagement, were on all hands admitted.

III. Because this House hath refused even to entertain a bill, found upon the information contained in those papers, and maturely considered and adjusted in the other House; and because no adequate solution was proposed, that held a reasonable expectation, that these abuses would be redressed, in the common course and practice of office.

RADNOR, NUGENT TEMPLE,
OSBORNE, CHANDOS,
ABINGDON. FERRERS,
DE FERRARS, CHATHAM,
SAY and SELE, RUTLAND,
SYDNEY.

July 2.

A debate occurred on the Lambeth bill, when it was recommitted.

July 3.

The Earl of Effingham.

The Earl of *Effingham* moved for leave to call witnesses to their Lordships' bar on the second reading of the bill for the relief

lief of insolvent debtors; such a measure he thought requisite to substantiate several matters of fact relative to the miserable situation of many of these unhappy persons; as by that means their Lordships would have convincing proofs what a call there was at this moment for them to extend their humanity; his Lordship entered into a detail of the numbers who were now either confined or had fled into foreign parts, through an incapacity of paying those debts which misfortunes had compelled them to incur, and to avoid a similar distress; in the first description there was upwards of 10,000; in the last more than 13,000. It was needless for him to inform the House what a disadvantage it must be to the community at large to have such an amazing number of its most useful members precluded from rendering that service to their country, which as artificers and mechanics they certainly would be of, were they at large, at home, and employed in their different professions. To have these circumstances fully and clearly explained, was the reason for his having made this motion, and for the same reason he desired their Lordships' concurrence.

The Earl of Mansfield.

The Earl of *Mansfield* was against admitting persons being called to their Lordships' bar as witnesses in this instance, because what they were to prove had nothing at all to do with the bill; there was not a single tittle in the bill concerning the hardships and misfortunes of the persons proposed to be set at liberty, at least if it was as the noble Lord had stated it to be, a mere copy of that which was brought before the House in 1776. These bills in general were rather looked upon as matters of policy than humanity; and therefore the establishing of those facts which his Lordship had alluded to, was of no consequence whatever, upon which principle he could not see there was any occasion for the present motion, as it was merely to call witnesses to substantiate that which it was no matter, with respect to the bill in question, whether it was true or false.

The Earl of Effingham.

The Earl of *Effingham* said, that if he and the learned Lord were giving evidence, the court would not be very competent to decide upon their accounts of what was certainly the same thing; one of them must therefore certainly be very much mistaken. But he conceived, if any noble Lord would take the trouble of reading the first four lines of the preamble, he would there find it was expressly stated, to relieve those who were incapable of paying their debts, but who were ready to make every satisfaction in their

their power to their creditors, it was to prove this, and for several other reasons, that he wished to have the witnesses at their Lordships' bar.

Earl Bathurst. Earl *Bathurst* said, he had had the honour of a seat in Parliament for more than fifty years, and during that space had seen many of these kind of bills brought in: but he did not remember a single instance of one passing without meeting some opposition on account of their being hurtful to credit; whether they were most hurtful or beneficial, he believed would always be contended; however Government had frequently thought it good policy to admit them. That many a creditor had been ruined by them, surely no one would deny, as it was notorious, that no sooner did a newspaper mention that such an act was likely to take place, than numbers immediately threw themselves into prison, or fled beyond sea, that they might take the benefit of it. It had been generally expected that there would be one in consequence of his Royal Highness the Prince of Wales coming of age, and that had been the occasion of encreasing the numbers to so large an amount as the noble Earl had stated them; he thought it was very wrong to hold out these kind of false hopes to people who were always ready to take advantage of their creditors; he had never seen an instance of a witness being examined in such a case, nor was there, in his idea, any occasion for it, as the preamble always spoke in general terms, and what it stated was admitted as matter of fact.

The Earl of Effingham. The Earl of *Effingham* replied, it would be very easy to preclude those people who had purposely thrown themselves into prison, or fled, being able to take the benefit, by making the date previous to this measure being glaringly done: and for this he was prepared; for he understood that there were but 16 went into the King's Bench in the month of April last, and in May there were 140. This plainly pointed out the time when the act ought to be dated.

Lord Walsingham. Lord *Walsingham* was no great advocate for these bills; he did not mean to say they were not necessary at some time, but he could not find out the necessity there was for proceeding on them in a new mode: and therefore wished the noble Earl would not press his motion, at least when the House was so thinly attended; if however he thought it necessary to take the sense of the House upon it, had he not better move for their Lordships to be summoned, and bring it forward then? One thing that the noble Earl had mentioned,

 his

his Lordship thought, called for the greatest attention, it was the multiplicity of prisoners that were now crowded together; it was not only to be dreaded that diseases would be among themselves, but that those diseases would spread to the kingdom at large. Some method ought to be immediately adopted to prevent this threatening evil, and it was indifferent to him, as he had stated on a former day, whether the expence was to be defrayed by the different counties, or the public at large; the act having expired which sent felons of a certain description to work on the Thames, had occasioned this encrease; debtors and felons were now crammed together, and it was highly requisite such a practice should be discontinued.

The Earl of Effingham.

The Earl of *Effingham* said a few words to defend his persisting in his motion, which was at length put, and negatived without a division, after which the House adjourned.

July 7.

The Earl of Effingham.

The Earl of *Effingham* rose previous to the second reading of the insolvent bill, and observed, that as their Lordships the other day, in their wisdom had thought proper to refuse him the liberty of summoning witnesses to their bar to prove facts, which he thought necessary to be clearly pointed out, before they proceeded on the bill; he was obliged to rest contented with the attendance of those who were inclined to come voluntarily. Others indeed he had wished to have seen there, but some would not, and others from their embarrassments, could not with safety come without an order from that House; those however who had come to the House, he trusted would prove sufficient to substantiate those facts he alluded to, and therefore he moved their Lordships "that the reverend Mr. Green be called to the bar."

Ld Thurlow.

Lord *Thurlow* wished the noble Lord to inform the House what those facts were, which his Lordship was so strenuous to prove.

The Earl of Effingham.

The Earl of *Effingham* thought they had been sufficiently explained the other day, which had made him avoid troubling the House with a repetition; but as the noble Lord was not present at the time, he would just mention them again; the first was to prove that the gaols of this kingdom were filled to such an amazing degree, that an insolvent act, or something of a similar nature, ought to take place, by way of preventing an infection in the kingdom; secondly, that the manufactures and revenues were greatly injured by the

the numbers of useful mechanics who had fled to foreign parts on account of their debts, and were actually in the service of other states, and lastly, that many were in great distress, who having been in jail at the time of the tumults in 1780, were intitled to the benefits of the act that ensued, but who not having precisely conformed to it, in consequence of their ignorance, were still in confinement; these were the principal facts he intended to prove at the bar, and being proved, he could not doubt but their Lordships would be convinced of the pressing necessity for passing the bill.

Lord Thurlow said he did not perceive by the suggestion of the noble Earl, that there was the least occasion for calling witnesses, or that they were meant in fact to establish any matter that was connected with the bill in question, for in the first place the bill did not make the least mention of the jails being crowded, either as a plea or argument for passing it, and therefore it appeared to him as a circumstance of very little consequence to their Lordships, whether it was or was not the fact, nor did he think they could with any propriety [illegible] witnesses at the bar, unless their testimony went [illegible] contained in the bill which was at the time before the House. The second position of the noble Earl's was, to be sure, [illegible] in the bill; but then it was nothing more than had been mentioned in every bill of this kind for a long time back, stating there was a number of artificers and mechanics beyond sea, and allowing them to take the benefit of it; but it was merely a matter of opinion how many would embrace it, and a thing that could not possibly be proved; of course witnesses were very unnecessary on that head. With respect to the third, he conceived it to be farther from the point than either of the others, as this was to establish a fact that was a cause of complaint, without specifying any remedy. The late act, of which these persons neglected to take benefit, had been framed with the greatest attention and circumspection of several of the learned Judges, to prevent its being productive of that mischief which insolvent bills had been found by experience to be the occasion of; both Houses of Parliament were so convinced of their evil tendency, that the preamble had been totally changed, and instead of asserting such a thing was found to be just and expedient, it stated, notwithstanding the ill consequences, such a measure was thought necessary; therefore he was the more surprised that the noble Earl should have made choice of an act as a copy for the sanction of Parliament

Lord Thurlow.

Parliament which had passed antecedent to those amendments.——His Lordship then entered very largely into the mischiefs these acts were generally fraught with, and the little advantage that was derived from them; in support of which he made use of many excellent arguments, and in the end condemned the practice of passing them, not only for the reasons he had pointed out, but because they went to dispense with the laws of the land, and to declare those laws were inadequate to the task they were made for. As he was no great advocate for the bill itself, he should certainly give his negative to calling of witnesses, which according to his idea, could not possibly be of any advantage to it.

The Earl of Effingham.

The Earl of *Effingham* made a very able reply to the learned Lord, and followed him through almost every one of his arguments: he said, he always felt his own inability, whenever he happened to differ with the learned Lord, and had to contend with him on policy or politics, but as a plain man, he thought he was not incapable of judging of two or three of the plainest lines he had ever read in his life; and if that was the case, why then the bill in question alluded to the two first facts, which he wanted to prove, and which, if their Lordships would permit him to call the witnesses, he had not the least doubt of proving. And so far from the bill not containing any thing relative to those who came under the description of sufferers, and whom he wished to redress by proving that the fact existed, he had introduced a clause at the end of it for that purpose only, and which was the only alteration he had made in the act of 1776. He had originally intended to have moved for the insertion of that clause, when the bill came before the Committee, but had altered his intention, lest it should have the appearance, that he wished to smuggle it through the House. He lamented as much as the noble Lord, that our laws, with respect to debt, were so inadequate, as to need these amendments or dispensations, and hoped he should be able to offer their Lordships some plan very early in the next session, that would be found more expedient than shutting an individual in the walls of a prison for life—he had heard of a woman, whose original debt was 14l. but from costs and expences amounted to 50l. who had been in prison from four years before he was born, till the present moment—it was from such cases as this that he had long wished to abolish imprisonment for debt, and to prove the existence of many similar

lar cases it was, that prompted him to persist in his motion, that the reverend Mr. Green be called to the bar.

Lord *Thurlow* declared it as his opinion, that if it was found expedient to alter the laws respecting imprisonment for debt, it ought not to extend to any debts contracted before passing of that law, as otherwise it would take away, what the creditor had looked upon as security for being paid at the time he had trusted the debtor with the goods. Insolvent acts had been so frequent, that they were now expected as a matter of course, and the whole idea of the fraudulent debtor was, how he should take the advantage of them.— Communication was held at almost every jail in the kingdom, on the supposition that the present one would pass, and plans remitted to each other, containing schemes for bringing themselves within the description of it. He was certain that great numbers had gone into prison on this idea, and he was sorry, when an act of this kind passed, it was not generally understood, that there would never be another. Such a measure, he was certain, would be of great advantage to the creditor, and who, practice had taught him to believe, was very much more to be pitied, than what was termed the unfortunate debtor.

Lord Thurlow.

The Earl of *Effingham* was surprised that the learned Lord should possess such principles, and yet defend the act which contained almost a direct contradiction; to be sure it did not actually say there should be another, but it asserted what was nearly tantamount, for it expressly said, that any person taking the benefit of this, shall not receive any advantage from any future act: now the word future, in this place, did imply to him, that it was more than probable another would pass and it was not to be wondered at, that the world had put such a construction on it; and he, finding he should not be able to produce that regulation which he had been endeavouring to form before the next session, had thought it was requisite, from the different accounts he had received, that some such temporary measure should be adopted, lest the plague should be the consequence of so many people being kept in confinement.

The Earl of Effingham.

The Earl of *Mansfield* had expressed his disapprobation to calling witnesses on a late day, when this matter was agitated before, and instead of having altered his opinion, he was the more convinced of the impropriety of adopting such a measure: to say nothing more of it, it was entirely out of all rules of that House; for although any noble Lord had

The Earl of Mansfield.

had a right to bring up a bill to that Houſe, yet that bill muſt ſpeak for itſelf, and carry its neceſſity or meaning upon the face of it, as no noble Lord was competent to introduce a bill of pains and penalties, a money-bill, or where witneſſes were to prove its conſequence or propriety, without firſt taking the ſenſe of the Houſe whether ſuch bills ſhould be brought before them or not; upon this principle therefore it ought to be rejected, as it would be eſtabliſhing a precedent that might not be attended with the moſt agreeable circumſtances in future. His Lordſhip then entered into his arguments, which he had before urged againſt theſe bills in general, and condemned them as of the greateſt diſadvantage to credit, eſpecially when they became ſo common as to be almoſt periodical; indeed he might call them periodical, as one had paſſed in 1774, another in 1776, another in 1778, another (the riots happening in 1780) in 1781, and now this being 1783, an inſolvent act ſeemed to be expected as a matter of courſe—he would not ſay he ſhould never conſent to another; but yet if he intended to introduce one himſelf next ſeſſion, he ſhould think it extremely wrong to let ſuch an idea get into the world, as numbers would be preparing to take advantage of ſuch a meaſure taking place, and throw themſelves into priſon for that purpoſe, and to defraud their creditors; his Lordſhip made a very long and animated ſpeech, chiefly tending to convince the Houſe of the fallacy of paſſing theſe bills, and concluded by condemning the idea of calling witneſſes to prove a matter that had nothing at all to do with the propriety or impropriety of paſſing the preſent one; its being a copy of that paſſed in 1776, was ſufficient to condemn it, as both Houſes of Parliament had thought it requiſite to make ſuch a material difference between that and thoſe they had paſſed ſince: it was therefore neceſſary that it ſhould undergo a thorough inveſtigation, an inveſtigation which, if common report was to be credited, there would not be time for during the preſent ſeſſion.

The Earl of Effingham.

The Earl of *Effingham* again roſe, and went into a minute reply to the noble Lord; he ſaid he did not conceive, that in a caſe of this kind it would be found good policy to ſtand up for the rigid obſervance of the rules of this Houſe, and with reſpect to the time neceſſary on account of its differing from the laſt act, he did not think of any force, as the preſent one, he was certain, would meet but little oppoſition in the Houſe of Commons, as it was exactly ſimilar to the one ſent

fent up by that Houfe, but which their Lordfhips had thought proper fo to alter and mutilate as to make them fay, their Lordfhips had better regulate thefe bills themfelves, if they are to be transformed in this manner. He concluded by obferving, that he had but little hopes left that he fhould fucceed in his motion, but if their Lordfhips would not affift him in probing this matter to the quick, he would perfift in his purfuit until he fhould convince them it was not unworthy their notice; the practice of many of the officers cried aloud for infpection; they fhould have it, and their infamy fhould be expofed: if he could not obtain the enquiry in that Houfe he would purfue it in another place, for he was determined to inveftigate it to the bottom, and to hold their proceedings up to public deteftation, which he conceived they fo juftly merited.

The queftion was then put for calling the reverend Mr. Green to the bar, which was negatived, no one of their Lordfhips feeming inclined to divide with the noble Earl, after which the fecond reading of the bill was poftponed to this day two months. The Houfe then adjourned.

PROTEST.

July 7, 1783.

"The order of the day being read for the fecond reading of the bill, intitled, "An act for the relief of infolvent debtors, and for the relief of bankrupts in certain cafes."

It was moved, that the rev. Mr. Green be called in, and the fame being objected to, after debate, the queftion was put thereupon. It paffed in the negative.

Diffentient,

"Becaufe, whether a bill be brought in by order of the Houfe, or by an individual member, yet if the propriety of its paffing into a law depends on the truth or falfehood of certain allegations, there can be no impropriety in hearing evidence as to the matter of fact.

"2dly, Becaufe, however it may be confiftent with the compaffionate feelings of the Houfe to take facts to be granted, on which it is meant to ground an act of humanity; yet it is doubtlefs more confiftent with its dignity and wifdom to have them eftablifhed by evidence; more efpecially as it was fo ftrongly urged in debate, by the fide which oppofed the admiffion of evidence, that compaffion to debtors might be cruelty and even injuftice to their creditors.

EFFINGHAM."

Then it was moved, that the second reading of this bill be put off for two months; which being objected to, the question was put thereupon. It was resolved in the affirmative.

Dissentient,

"Because, after admitting in debate that the facts on which any bill rests, are in some degree true, and refusing to hear evidence, as to the extent to which they are true; it seems hard to reject such bill, without shewing that the provisions of it are not properly applicable to facts so admitted.

EFFINGHAM."

July 8.

Lord Thurlow.

Lord *Thurlow* rose on the second reading of the bill for regulating the trade and certain offices in the island of Dominica, just to give their Lordships intimation that he should propose some amendments, which appeared to him highly necessary, when it came before the Committee. In its present state it very nearly bordered upon absurdity, compared with several acts which had passed in his present Majesty's reign, one in particular that was passed in the present session, it went entirely to controvert; but as he meant to explain it more largely when before the Committee, he should decline troubling their Lordships with any thing farther on the subject, than to request it might be committed for Friday next, which was ordered accordingly, and the House adjourned.

July 9.

In a Committee of the whole House, Lord *Chedworth* in the chair, on the Excise bill, counsel was admitted to the bar in behalf of the distillers of London and Bristol, to shew how far it would be injurious should it pass into a law; having gone through their different arguments, and withdrawn, the clerk proceeded to read the bill, until he came to the clause for inflicting a penalty on persons altering permits, making false ones, or having such in their possession, knowing them to be so altered, or false, when

The Earl of Effingham.

The Earl of *Effingham* rose, and objected to its standing part of the bill, as he did also to the clause that followed, which was for punishing those in whose custody instruments should be found for stamping permits, unless they could produce lawful excuse for it; his principal objections to these

clauses were, that the fines were no way proportioned to the crime, as the man who endeavoured to defraud the revenue of only a few shillings was to be punished equal to him who attempted a hundred thousand pounds, and it was as easy for an innocent man to be brought within the meaning of this bill as a guilty one: for instance, a man at Bath, might send to a wholesale dealer at Bristol for six or eight gallons of spirits, and might receive a permit with them in which an erasure had been made; what was this man to do? He dare not take the spirits in without the permit, lest the exciseman should come to examine his stock before another could be procured; if he kept this which he suspected, and shewed it to the officer, even with this suspicion, he was then at the mercy of the exciseman, whom he looked on as not the most worthy character in this kingdom, who might immediately have this innocent man committed to prison, unless he could procure bail of 500l. when perhaps his situation in life made such a thing impossible. Nor might it end here; for it was not impossible that he should be unable to prove his innocence farther than his own word, and then would be subjected to the whole penalty without ever having had the least intention to commit a fraud; in the same manner was the person situated in whose house those instruments were for making false permits, as they might be there without his knowledge or intention to use them. He did not object to the penalty in either case for the sum, but because there was no regulation according to the offence, and therefore proposed that the bail should be for three times the value of the goods suspected of being smuggled.

The Earl of Mansfield.

The Earl of *Mansfield* answered the noble Lord with that clearness and ability which ever marks his character: in the course of his arguments he stated, that smuggling was so notoriously pursued, that in the circuits which he went they were to be seen in gangs in the middle of the day, and carried on their traffic as openly as any dealer in Cheapside. That he knew of no method that could now be pursued to stop it entirely — the revenues were greatly injured by it, and mostly under the appearance of the sanction of the law, for it was well known that permits were taken out for a large quantity of goods, and from each a number was made, by whose means they conveyed the smuggled property to different parts of the kingdom without any great danger of being detected; it was therefore very necessary to make the laws severe against

ſuch practices; in every ſimilar caſe it was felony, nor did he perceive any great reaſon why it ſhould not be in this, for it was forgery in every ſenſe of the word, copying or altering an inſtrument with an intent to defraud. His Lordſhip did not therefore conceive it by any means merited that conſtruction of cruelty which had been applied to it; for their Lordſhips all knew, that if a man was charged with felony, he was confined till the time of trial: in this caſe he was allowed bail; and if he could not procure that bail, why he was liable to be confined alſo; but then it ſhould likewiſe be underſtood, that it was not ſufficient to find this falſe permit in his cuſtody, unleſs it could be proved he knew it to be ſuch, and that was a ſituation that no honeſt trader would ever be found in; the ſame argument might be applied to the finding of inſtruments for making theſe falſe permits, as the finding them in a man's cuſtody was not ſufficient to convict him, ſo he could produce any lawful excuſe for having them; the ſame as with reſpect to coiners: for though finding thoſe inſtruments in any perſon's poſſeſſion was felony, yet he was allowed the ſame proviſo, becauſe the very ſame inſtruments were uſed in the trade of button makers, &c. For theſe, among many other reaſons, he thought the above clauſes ought to ſtand as they now did, being clearly framed, as he underſtood them, for the advantage of the fair trader. —— The opinion of the Houſe being taken upon them, they were agreed to, and the clerk proceeded to the clauſe for granting liberty to the exciſeman to enter a houſe at any time, upon making affidavit that he had reaſon to ſuſpect there was a ſtill unlawfully at work, when

The Earl of Effingham.

The Earl of *Effingham* ſaid he muſt again trouble their Lordſhips, as this was a matter that called for a moſt ſerious inveſtigation; it was a direct infringement upon that which every Engliſhman looked upon as his conſtitutional and ſacred right, the protection and ſafety of his own houſe. He had ſeen large ſtrides attempted to deprive the ſubject of his liberty, but was there ever a greater than this, which gave ſanction to a law to break open a man's houſe, even at any hour of the night, without aſſigning any reaſon? He truſted their Lordſhips would feel the full force of this, and not ſuffer ſuch a clauſe to paſs; he expatiated pretty largely on the conſequences that might be apprehended from it, and expreſſed his aſtoniſhment that thoſe who called themſelves Whigs could for a moment think of giving it ſupport.

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The Duke of *Portland* did not conceive it was so much to be dreaded as the noble Earl stated it ought to be, and for this plain reason, because it was not a new measure; the same was now in existence with respect to tea, candles, starch, &c. and none of these evils had ever happened with them; therefore why should it be suspected that it would with this? He regretted as much as any noble Lord possibly could, that there should be an absolute necessity for such a proceeding; but the necessity was so great, and the cause of apprehension so little, that he had no hesitation to adopt it. As a proof of what he asserted, he observed that the revenue upon foreign spirits had decreased upon the average, in the last four years, upwards of four fifths: prior to that time, they had produced above 50,000l. per ann. but in that space the average was not more than 9250l. the last year was little more than 3000l. and he doubted whether in the present there were above ten puncheons fairly entered: this was such an alarming decrease, that some measure was absolutely necessary to be adopted, and without this clause, therefore, the bill would in effect be nugatory.

The D of Portland.

The Earl of *Effingham* agreed with the noble Duke, with respect to the falling off of the revenue; but then he thought, even if it could be recovered, it was by no means adequate to the loss of liberty. He remembered when the act passed, to oblige creditors to allow debtors four-pence per day, it was universally asserted, that four-pence per day was the established price of an Englishman's freedom; and it might now be said we had dealt in the wholesale way, and valued the liberty of the kingdom at 45,000l. he, however, could never consent to give it his voice, and therefore moved that the clause should be omitted.

The Earl of Effingham.

Upon the question being put, the clause was ordered to stand, and the rest of the bill was agreed to without any farther debate, and the House adjourned at half after six o'clock.

July 11.

As their Lordships were entering on the bill for establishing a free port in the island of Dominica, and for regulating the offices and officers in that, and in the island of Jamaica:

The Duke of *Portland* observed, that as he found there were a number of improprieties in the bill, and which improprieties it would be impossible but their Lordships likewise must discover, if it went into a Commttee, it might be

The D. of Portland.

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as well to put a stop to its farther progress he could not otherwise account for its having proceeded so far, but by there having been too much confidence placed in those very respectable characters who had been the framers of it, and who, he firmly believed, had not foreseen the consequences of those parts which were undoubtedly exceptionable; at present, however, he thought it was quite unnecessary to enter farther into the subject, especially as he conceived this was not a proper period to go into a minute discussion of many parts of the bill; and therefore should move that it be postponed to this day two months.

Lord Walsingham. Lord *Walsingham* then rose, and stated a variety of objections against the bill. His Lordship observed, that the island of Dominica was not as yet in our possession; and it was therefore unnecessary, thus early to pass a bill for constituting it a free port. Circumstanced as the island was at present, we could not exactly describe it. We could neither call it a British colony, nor one of our West India islands. After dwelling for some time upon this difficulty, his Lordship shewed that the bill, in the subject of the motion, would affect and go in opposition to various acts of the present King. He stated the particular statutes, and made extracts from each, to prove in what points the bill militated against them. He gave a detail of the act meant to be revived by the bill, and mentioned the different attempts that had been made at different times to constitute Dominica a free port. After going through his detail with great accuracy, his Lordship said, his principal objection yet remained to be stated, and if that could be done away, he should have no objection to withdraw all he had previously urged, it was this: the bill before the House authorized the revival of an act that would effectually repeal the convention entered into between this country and Ireland, by the act of 1780 He said he would explain himself on this point. He then amply stated, that a principal part of the act of 1780 went to the giving Ireland a power to import sugars from the West-India islands, at the same duties that Great Britain paid on importation. The act meant to be revived, namely, the 6th of the present King, and the act continuing it to 1780, directly enacted the reverse. This his Lordship dwelt on as a circumstance that must alarm Ireland extremely, and therefore he advised their Lordships to pronounce decisively against the present bill, and not seem, by any palliative means of getting rid of it, to countenance such an idea. His

His Lordship delivered his arguments with great deference to the House; but they were obviously founded in judgment and reason, and tended to shew the impropriety of the bill in glaring colours. He concluded with moving, "That the bill be rejected," which he thought a motion more proper, than a bare postponement of the consideration of the bill for two months.

Lord Stormont thought himself truly parliamentary in informing the House that the present motion for their consideration was that proposed by the noble Duke, and that no other could properly be made previous to that being disposed of: he had listened with great pleasure to the judicious arguments that fell from the noble Lord who spoke last, but at the same time he was free to say that pleasure would have been much greater had they been used at any other period; nay, he was surprised that the thorough knowledge he had convinced the House he possessed of the nature of the business, had been sufficient to deter him from entering into an investigation of it at this moment, as the same knowledge must likewise, upon very little reflection, convince him of its impropriety; he did not wish to be understood as giving any opinion upon the bill, either as approving or disapproving its principle, but for the reasons assigned by the noble Duke, he thought it would be as well to get rid of it for the present, and he likewise thought his noble friend had adopted the most judicious method for doing so.

Lord Stormont.

Lord Thurlow agreed, that the noble Lord was perfectly right in saying the noble Duke's motion must be decided upon before any other could be made; but then their Lordships might divide doubly upon it, for those who wished to reject the bill, might put a negative upon the present motion, and afterwards vote for its rejection, or they might be in the affirmative in the first, as that being carried would not prevent any noble Lord from rising and moving for its being rejected. Why there should be the least hesitation to reject it at once, he was unable to form the least idea, since the noble Duke who made the motion, and the noble Lord who supported it, both agreed it was a bad bill; nay, neither of them would even say, they admired the principle of it; he wished however to know what was their future intention concerning it: did they mean to let it die, or did they mean to revive it; such information he thought necessary, for there were more evils to be apprehended, than perhaps many of their Lordships had the least conception of. Did

Lord Thurlow.

they

they perceive how far it related to Ireland? The consequence it might be of in that country? That it went to break that harmony which now subsisted between us, and which such infinite pains had been taken to render permanent! That it was in direct contradiction to the act which had been made in favour of that country in the year 1780; by that act we allowed goods to be imported there, paying the same duties as in Great Britain; but by this, certain goods were to come to Great Britain only, such a measure would certainly be a violation of agreement; and therefore it was that he thought it requisite the House should know what was the determination of Ministers on this point; other ill consequences equally important were to be dreaded from the principles of such a bill as this; but they had been so fully explained by a noble Lord (Lord Walsingham) that it was needless for him to enumerate them. The plea of this being an improper season for its undergoing a thorough investigation was idle; no time could be improper to discuss a matter of such importance to the nation; and therefore if Ministers were not prepared, let them appoint a day, and not suffer Parliament to depart unsatisfied of their intentions; he trusted they would do so, and not endeavour to get rid of so material a question in such a frivolous manner.

Lord Stormont.

Lord *Stormont* rose again, and said, with regard to what the noble and learned Lord had said respecting Ireland, it was a little extraordinary that a matter by no means a subject of present consideration, should thus inconsistently be forced into a debate, which he was astonished could have arisen. He had not said one syllable respecting Ireland, nor was he prepared to give any opinion upon that subject, neither did he see there was the smallest necessity for his giving one on the present occasion. His Lordship said, he could not agree that there was in the present case no difference between rejection and postponement, and that they were mere words. Certainly the bill would be got rid of either way; but though he was extremely desirous of not being understood to have given any opinion whatever in favour of any part of the bill, he begged to be also understood as declaring himself not sufficiently informed upon the subject, and therefore as warranting no conclusion with regard to his sentiments.

Lord *Thurlow* rose again, and said, if Ministers had not made up their minds as to the question, whether it was right to adhere strictly to the convention with Ireland or not, certainly that was a good reason for their refusing to enter into a discussion of the principle of the bill. But he warned them of the danger of a declaration, that the question was afloat in their minds, and urged them to come to some decision upon the subject. He said, he had before understood, that the present bill was not a measure of Government, and indeed the House had heard so that day from the noble Duke at the head of the Treasury. The bill, he had now learnt, was the production of certain persons interested in the island of Dominica, and to whom a degree of credit must necessarily have been given, so far, as went to warrant the supposition that the bill was as well adapted to the circumstances of the island, as the nature of the case would admit. He was willing therefore to impute its errors to mere accident, and to suppose, that they had escaped the notice of Government, and therefore he had no objection to their reserving the discussion of all that part of the subject undisturbed, clear, and fresh, till a fit opportunity should present itself for their taking it into consideration; but it was entirely a different matter, whether they said, that an opinion respecting the policy of adhering to the convention of 1780 with Ireland, was afloat in their minds or not.

Lord Thurlow.

The Earl of *Mansfield* apprehended their Lordships had wandered quite astray from the point in question, for, in his judgment, the principle of the bill went no farther than to establish a free port in the island of Dominica; it had nothing at all to do with America; it had nothing at all to do with Ireland; and if it had, what did it signify, since it was clearly the opinion of every body, that it ought not to pass? What was the motion? Why, to defer it for two months; and was not that in fact rejecting it? Was not such a motion generally so understood? Then where could be the difference, or where was the need for any altercation, since all parties were determined to reject it? If it was deferred for two months, and any noble Lord chose to bring it forward next session, why, to be sure, he was at liberty so to do; and that would be the proper time to investigate it, not now, when it was agreed on all hands, it ought to be got rid of. On the other hand, what did the rejecting of it amount to more? for if it was rejected, any member of Parliament, of either House, could introduce it

The Earl of Mansfield.

again the next session; so it was plainly the same whether it was postponed or rejected. One thing, he conceived, the learned Lord was mistaken in, which was, when he stated, that provided the motion should pass, any noble Lord would then be at liberty to make another motion for rejecting it; now it struck him that would not be according to the custom of that House; for he had always understood that when a day was appointed upon motion for any bill, the House could not proceed on that bill until the day so appointed; if he was wrong, the learned Lord, he trusted, would set him right; but such had ever been his opinion.

Lord Thurlow.

Lord *Thurlow* admitted, that if a day was moved for the second reading, or for committing a bill, that then it could not be proceeded upon till that day; but he did not agree that a motion might not be made prior to that day, for rejecting it altogether; it was quite a different case, and therefore he thought himself perfectly correct in what he had before stated; his Lordship again adverted to what he conceived the principle of the bill might fairly be charged with, and condemned both that and the backwardness in Ministers, in not acquainting the House with their future intentions; the postponing the bill did not mark it with that contempt he thought it merited; he was therefore still for its rejection, and hoped to see it meet with that fate. With regard to the principle of the bill, he could not by any means agree, that it was merely, whether Dominica should be made a free port; he conceived it to be whether the convention with Ireland of 1780, ought or ought not to be repealed. Upon that, he thought it highly necessary, that Ministers should say, whether they had any doubts or not. He could not himself give any opinion, because he was not sufficiently informed to be able to decide; but Government having better information, might possibly have formed some opinion, or their ideas respecting it might be yet afloat. In either case, he thought it right, that something certain should be said, and that the session should not end with a matter, of such very great importance, left in a state of ambiguity. He admitted, that the noble Duke, and the noble Viscount, had both reasoned ably, considering the matter as a subject, upon which it was unwise to enter into discussion; but he should not consider a subject of so very nice a nature, as a matter that would admit of the postponement desired; he therefore earnestly beseeched the noble Duke and the noble Viscount, to pay so much regard to the peace and safety

safety of the country, as to put the motion one way or other out of question.

The D of Portland.

The Duke of *Portland* begged the indulgence of the House for a few moments, while he assured their Lordships that he did not believe it was the least intention of Ministers to give Ireland the most distant cause for suspecting they did not wish to promote that unanimity which now existed, and which he hoped would long exist; and that nothing was more foreign to their ideas, than to infringe on any indulgence that had been granted to that country: he was surprised that such an idea should have been stated, or how it could possibly creep into a debate on this bill, which he thought was as unconnected with it as it was possible for any question to be; many gentlemen had been very considerable losers in that island, and Government had thought itself called upon to make some regulations, by way of giving those people an opportunity of recovering part of their losses; but as it was found the bill which had been introduced was incorrect and absurd in many particulars, he apprehended it would be paying them an ill compliment, which they by no means deserved, if it was not got rid of in the most delicate manner possible; and that had been the motive for inducing him to take the method he had done, and which he as yet saw no reason to deviate from.

Ld. Sidney.

Lord *Sydney* condemned the bill in very warm terms; he thought that if it was only because it was to appoint officers, and to regulate offices, in an island which was not at this time in our possession, it ought to be rejected with disdain for the absurdity which it carried upon the face of it; but when he reflected what might be the consequence, on its being known in Ireland, that such a bill had been brought forward, and that Ministers in some measure supported it, he shuddered with apprehension, and was of opinion that nothing but rejecting it in the most contemptuous manner, could possibly prevent their ever watchful and jealous suspicion from breaking into a flame; the noble Duke, from his having so recently quitted that kingdom, could not be a stranger to their jealous disposition; could not be a stranger to there being numbers, who gladly seized every opportunity to magnify every transaction of this country, that could in any shape be construed to militate against their interest, and here was a fair opening indeed, to exclude them from one of the first advantages which had been granted them, a free importation with ourselves. They were so very tenacious of

their interefts, and jealous of infringements, that even the words which had fallen from Members of Parliament in this kingdom, had ferved them as a plea for continuing their complaints; what then muft be expected from fo jealous a people, when they learn a bill of this kind had been introduced; nay more, that Minifters refufed to fay in what manner they intended to act in future? He faw no claim thofe people alluded to by the noble Duke could have, to be treated with fuch complaifance, when put in competition with a matter of fuch importance as quieting all caufe of fear in that kingdom. It might indeed be thought complaifance in him to accede to the propofitions of the noble Duke; but having been a ftranger to fuch treatment himfelf, from thofe which his Grace now called his friends, his new friends, his nature could not brook it: he and his colleagues had been arraigned by them for calling back peace, with all her bleffings, to this country; others had talked largely on the treaty with America not being concluded; it was what they could have achieved in twenty-four hours. But how long had this union been made without its being accomplifhed? he had no friends, no connections to feek; he wifhed for none, that he muft give up his principles to them, or they to him; the noble Duke was for many years open to conviction, and he hoped he was fo ftill, as he wifhed him to take the credit of withdrawing his motion, that the noble Lord's might ftand for rejecting it.

Lord Stormont.

Lord *Stormont* apologifed for troubling the Houfe fo often upon a matter that they were in fact all agreed, which was the death of the bill in queſton; but the only difficulty was how it fhould die. The noble Duke had ftood forth, and offered to be its executioner; but then his method of putting it to death was not approved of, becaufe it was fufpected he would not mark its exit with that infamy which it deferved; however the noble Lords had thought proper not to confine themfelves to this, which was the plain fubject before them, but to traverfe a long way out of the road to prefs Minifters for an anfwer to fuch queftions as they thought proper to introduce; for his own part, however, he never had, nor ever would think himfelf called upon to anfwer any matter which was not actually before their Lordfhips; therefore he fhould not fay what he thought might poffibly be Minifters' intentions refpecting thofe ideas which had been fuggefted as connected with the bill: he begged however to be underftood as giving no opinion concerning the principle of it; a noble Lord

Lord had said that Ireland would be alarmed at it; nay they were so jealous a people, that they suspected the intentions of this country, if any thing fell from an individual member of Parliament; he most sincerely wished, that the noble Lord had recollected that was their temper before he had said any thing on that subject, and not afterwards, as it would then have been impossible for them to have grounded their suspicions upon any thing that fell from him; his Lordship said he had a different opinion of that people; if they were tenacious of their rights, they were, in his idea, very far from low and sordid suspicions, and would never construe that into an attempt on their privileges, which had not the most distant allusion to them; if they were indeed as suspicious as the noble Lord had described them, it would be impossible for any Ministry to steer clear of such pitiful jealousies, nor would it be scarcely worth making the attempt. The method which the noble Duke had adopted for getting rid of this bill, he was still of opinion, was, by far the most judicious; he had purposely avoided entering into a discussion of it, both from its being an improper time, and the apparent determination of that House that it should not pass, which made any discussion on it totally unnecessary. The noble Lord who spoke last had likewise hinted at a subject that opened a vast scope indeed; but as he was still of the same opinion of that transaction as he had before expressed, an opinion he ever should retain, he would decline saying any thing more on that subject, than that signing those preliminary articles without making provisoes for certain persons and the commerce of this kingdom, was the most bungling, absurd, and reprehensible act that ever disgraced the annals of a civilized country.

Ld. Sydney.

Lord *Sydney* rose and desired the noble Lord would recollect, that the mention of Ireland had not been introduced by him; it had been frequently alluded to in the debate, before he attempted to trouble the House. With respect to the sentence with which he had concluded his eloquent speech, he should only say, that he wished an enquiry was made into that transaction: he should not shrink from it, but meet it with the greatest pleasure.

The Earl of Mansfield.

The Earl of *Mansfield* then put the Duke of Portland's motion for adjourning the farther consideration to this day two months, which was agreed to without a division, and the House adjourned to Monday.

July 15.

Paſſed a number of bills by commiſſion.

The Earl of Abingdon.

The Earl of *Abingdon* roſe, and ſaid, My Lords, a noble Lord, not now upon the woolſack, but who, I truſt, will very ſoon take his ſeat there again, having pointed out to your Lordſhips a day or two ago, the abſurdity of his Majeſty's Miniſters in bringing forward a bill for the purpoſe of regulating the offices and opening the ports of the iſland of Dominica, an iſland not now in our poſſeſſion, but in the hands of the French, and where it is likely to continue, for ſome time at leaſt, from the incapacity of thoſe Miniſters to conclude what their predeceſſors had ſo ably begun; I mean the definitive treaty of peace. I riſe to ſtate to your Lordſhips another abſurdity, which, notwithſtanding the authority I have for it, is of ſuch a magnitude, that it is impoſſible for me to give any belief to it, unleſs I hear it from the mouths of Miniſters themſelves, and find it avowed by them. The abſurdity, my Lords, I allude to is this: I ſee in the public prints, and under the authority of the Gazette, that an order of Council has iſſued for the purpoſe of confining the trade and commerce between the American States and his Majeſty's Weſt India iſlands, "to Britiſh built ſhips, owned by Britiſh ſubjects and navigated according to law." The order is conceived in theſe words: "Whereas by an act of Parliament paſſed this ſeſſion, entitled, 'An act for preventing certain inſtruments from being required from ſhips belonging to the United States of America, and to give to his Majeſty, for a limited time, certain powers for the better carrying on trade and commerce between the ſubjects of his Majeſty's dominions and the inhabitants of the ſaid United States,' it is amongſt other things enacted, that during the continuance of the ſaid act, it ſhall and may be lawful for his Majeſty in Council, by order or orders, to be iſſued and publiſhed from time to time, to give ſuch directions and to make ſuch regulations with reſpect to duties, drawbacks, or otherwiſe, for carrying on the trade and commerce between the people and territories belonging to the Crown of Great Britain, and the people and territories of the ſaid United States, as to his Majeſty in Council ſhall appear moſt expedient and ſalutary, any law, uſage or cuſtom to the contrary notwithſtanding; his Majeſty doth therefore, by and with the advice of his Privy Council, hereby order and direct, that pitch, tar, turpentine, hemp, and flax, maſts

masts, yards, and bowsprits, staves, heading, boards, timber, shingles, and all other species of lumber, horses, neat cattle, sheep, hogs, poultry, and all other species of live stock and live provisions, peas, beans, potatoes, wheat, flour, bread, buiscuit, rice, oats, barley, and all other species of grain, being the growth or production of any of the United States of America, may (until farther order) be imported by British subjects in British-built ships, owned by his Majesty's subjects, and navigated according to law, from any port of the United States of America, to any of his Majesty's West-India islands; and that rum, sugar, molasses, coffee, cocoa nuts, ginger, and pimento, may, until farther order, be exported by British subjects, in British-built ships, owned by his Majesty's subjects, and navigated according to law, from any of his Majesty's West-India islands, to any port or place within the said United States, upon payment of the same duties on exportation, and subject to the like rules, regulations, securities and restrictions, as the same articles by law are or may be subject and liable to, if exported to any British colony or plantation in America: and the right honourable the Lords Commissioners of his Majesty's Treasury, and the Lords Commissioners of the Admiralty, are to give the necessary directions herein, as to them may respectively appertain." Now, my Lords, if this be not a fallity, or some forgery, to make Ministers appear worse than they really are, it is that which must make every thinking man shudder within himself, because he cannot help perceiving into what hands the Government of this country has so unfortunately fallen; for, my Lords, not to mention the want of policy, which is so self-evident upon the face of such a monopolising measure as this is, in the moment of the negociation of a commercial treaty between America and this country, when we see the precarious state in which the commerce of America is, as to us; when every individual feels the necessity of attaching that commerce as much as may be to ourselves, and when we know of a certainty that this order (the conduct of America depending entirely upon the steps that we shall pursue towards her) will be answered instantly by a similar declaration on her part: I say, my Lords, even to pass by and overlook these considerations, great and important as they are in point of policy, the act itself is, in point of commercial regulation, the effect of the most consummate ignorance that ever before blasted the Councils of his Majesty. An act which at once betrays the want even of one single idea

idea not only of the nature of the commerce subsisting in that part of the world, but of the mode and manner in which that commerce is carried on and conducted. Good God, my Lords, what an idea! that his Majesty's West-India islands, and America, should be supplied with the produce of each other, by British-built ships, owned by British subjects, and navigated according to law! Why, my Lords, it is absurdity itself; so absurd, that there is not a cabin-boy in that trade that would not laugh in your face at the mention of such a proposition; nor could such a proposition ever have been made but by some ass of a city merchant, who, being a dealer in ships himself, would hope to convert those ships to this use, for his own private purpose, and not for the public service; nor was it possible for any Ministry to have adopted such a proposition, but the present. Why, my Lords, to mention one effect only of this curious system of navigation, the freight of the goods so exported and imported as this order directs, would be infinitely more than the value of the goods themselves. The prime cost of the goods in carriage there is trifling, and it is the readiness and cheapness of the navigation that supports the intercourse. From the vicinity of the American continent and the West-India islands to each other, the commerce is, as is well known, carried on by little sloops and schooners; nay even by half-decked boats, with two or three men, and perhaps a boy, on board of each, the value of one cargo of which, inconsiderable as it is, being more than sufficient to pay the prime cost of the whole vessel: whereas a ship, as described by this order of Council, must, from its superior charges and expences, either raise its freight beyond what the articles of its loading will bear, or make 50, nay probably 100 voyages, according to its size, before it can repay even the cost of its outfit. But, my Lords, was this new mode of trafficking, for new it is, either political or advantageous, it is not practicable; for it would be impossible to furnish British ships sufficient in number to carry on the trade, and to supply the calls of the several markets there for one single month; and thus it is that the intercourse between these countries is now by these means ignorantly, and with one *coup de plume*, not only hung up and suspended, but for the present, at least, totally prohibited and put a stop to, under every circumstance of injury on all sides, and without the smallest prospect of good on any. My Lords, I have mentioned this fact, out of a thousand others,

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in objection to this ridiculous order, and have said thus much, just to point out to your Lordships the danger that there is in appointing men to public trusts, because supported by an unnatural and a wicked faction, and who are incapable of doing the duty of their offices, and to hope and trust that the spirit of this nation is not so totally sunk as to suffer such a coalition of counsellors any longer to pervade the councils of his Majesty, and to direct the measures of this government.

Lord Stormont.

Lord *Stormont* observed, in reply, that he should not press upon the patience of the House but for a few moments, as he could not think of mispending their Lordships' or even his own time, so far as to enter into a detail in answer to such a vague species of declamation as the noble Lord had thought proper to display; he should call it declamation, as the tenderest epithet he could bestow upon it; but as he had never found it the disposition of that House, and, he trusted he never should, to take declamation for argument, or assertions for proof, he was free to say, that in the present case it was highly necessary for the noble Lord to substantiate some facts, ere his assertions would convey the most distant idea of crimination—he would however endeavour to select out of what fell from the noble Lord, that which had the appearance of argument; and first he would inform him, that what he had so correctly read, was by no means a forgery, but a measure which had been thought prudent for his Majesty's Council to adopt, and to which he, as one, had given his advice, not with a view of conferring any advantage on America, by opening an intercourse with our West-India Islands and America; but because he thought it would be of advantage to the subjects of Great Britain, and surely that was sufficient to induce any of the members of his Majesty's Cabinet to advise such a measure, especially when the order itself was of so temporary a nature, that it was not possible for it to have the least weight in adjusting the commercial treaty; he acknowledged the part he had taken in it; and he, as well as the rest of his Majesty's Ministers, would always be ready to answer, both in that House and elsewhere, for having advised it; he could not but think the noble Lord had proceeded from mistaken ideas, because as he understood the words in the order of Council, and as he had been informed they would be generally understood; in cases of this nature he never asserted any thing without proper information; those very vessels, which the noble Lord

had alluded to, were certainly included, as well as those which were built at the island of Bermudas. With respect to the epithets bestowed on the present servants of the Crown, he should not trouble their Lordships, but pass them over, as he should likewise the charge of having delayed concluding the definitive and commercial treaty, with only observing, that if any obstacles had or might arise, or any delays or difficulties were found in concluding it, they were occasioned by the bungling proceedings of that Ministry which the noble Lord seemed so cordially to admire and particularly to defend, and which if the present Ministry had pursued, he should have thought them entitled to be ranked among those asses which the noble Lord had so emphatically described.

The Earl of Abingdon.

The Earl of *Abingdon* was very happy that he had extorted a confession from the noble Lord, which had been so often attempted in vain; that was an acknowledgment that the definitive treaties were not yet signed. His Lordship said a very few words more on Lord Stormont's having mistaken part of his speech; after which the House adjourned.

July 16.

His Majesty having seated himself on the throne, Lord Townshend holding the cap of maintenance on his right hand, and the Marquis of Carmarthen the sword of state on his left, Sir Francis Molyneux, Usher of the Black Rod, carried a message to the Commons, desiring their attendance; the Speaker, with the rest of the House, came to the bar accordingly, and after making due obedience, the Speaker addressed his Majesty with a few words: he began with stating that he had brought with him three bills, which were the last his Majesty's faithful Commons had voted in their Committee of Supply, and with which with all humility they desired his Royal concurrence. He said, the Commons had granted the large and liberal supplies that had been asked, with great chearfulness, and in perfect confidence that his Majesty would direct them to be applied to the public service with that spirit of œconomy, by a due attention to which alone, the affairs of the kingdom could be rendered prosperous at home, and respectable abroad. He observed, that the revolution that had taken place in the situation of the kingdom, having brought with it a return of all the blessings of Peace, a great part of the public expences were necessarily ceased. His Majesty's faithful Commons, he said, had

turned their attention in the course of the session to the affairs of the East Indies, and he trusted, that the progress they had made in the business, promised, if the subject was resumed, and attended to with the same zeal and assiduity next session, ultimately to produce essential and permanent advantages to both countries. He added a few other remarks, and then presented the bills in form, to which the Royal Assent was regularly given. When the bill, granting Lord Rodney a pension of 2000l. a year on himself and two lives was passed, his Lordship (who sat on the Barons' bench, facing the throne) rose, and made his Majesty three obeisances. These forms over, his Majesty addressed both Houses, from the throne, as follows:

"My Lords and Gentlemen,

"THE advanced season of the year requires some remission from your long and laborious attention to the public service. The exigencies of that service may oblige me to call you together again at an early period; and I persuade myself, from my uniform experience of your affection to me, and your zeal for the public good, that you will chearfully submit to a temporary inconvenience, for the permanent advantage of your country.

"The consideration of the affairs of the East Indies will require to be resumed as early as possible, and to be pursued with a serious and unremitting attention.

"I expected to have had the satisfaction of acquainting you, before the end of the session, that the terms of pacification were definitively settled: but the complicated state of the business in discussion has unavoidably protracted the negociation. I have however every reason to believe, from the dispositions shewn by the several powers concerned, that they are perfectly well inclined to such a conclusion as may secure the blessings of peace, so much and so equally to be desired by all parties."

"Gentlemen of the House of Commons,

"I thank you for the supplies you have so liberally granted for the public service; for facilitating my arrangements towards a separate establishment for the Prince of Wales; and for enabling me, without any new burden on my people, to discharge the debt which remained on my civil list."

"My

"My Lords and Gentlemen,

"I earneſtly recommend to you an attention towards promoting among my people, in your ſeveral counties, that ſpirit of order, regularity, and induſtry, which is the true ſource of revenue and power in this nation; and without which, all regulation for the improvement of the one, or the increaſe of the other, will have no effect."

Then the Earl of Mansfield, Lord Chief Juſtice of the Court of King's Bench, Speaker of the Houſe of Lords, by his Majeſty's command, ſaid:

"My Lords and Gentlemen,

"It is his Majeſty's royal will and pleaſure, that this Parliament be prorogued to Tueſday the ninth day of September next, to be then here holden; and this Parliament is accordingly prorogued to Tueſday the ninth day of September next."

END OF THE ELEVENTH VOLUME.